

THE
UNREPEALED GENERAL ACTS
OF
THE GOVERNOR GENERAL IN COUNCIL.

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GOVERNMENT OF INDIA
LEGISLATIVE DEPARTMENT.

THE
UNREPEALED GENERAL ACTS
OF
THE GOVERNOR GENERAL IN COUNCIL
WITH
CHRONOLOGICAL TABLE, AN APPENDIX CONTAINING ORDINANCES I TO IX
OF 1914 AND I OF 1917, AND AN INDEX

From Act I of 1914 to Act XI of 1919.

Vol. VIII.

CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
1919

Price, Five Rupees.
English Price, Seven Shillings and Six Pence.

PREFACE.

THIS, the eighth volume of the General Acts, has been compiled on the same lines as the seven preceding volumes and contains the unrepealed General Acts of the Governor General in Council passed from the year 1914 to the 31st March, 1919.

In the case of rules and orders made under enactments which are war measures the reference in the footnotes is to the publication entitled Legislation and Orders relating to the War; and in the case of rules and orders made under other enactments the footnotes refer, where possible, to the List of General Statutory Rules and Orders which is kept up to date, as far as is practicable, by the issue of addenda and corrigenda.

The following Ordinances made by the Governor General are, for ready reference, printed in an Appendix, *viz.*, Ordinances I to IX of 1914 which are continued in force by Act I of 1915, and Ordinance I of 1917 which is continued in force by s. 18 of Act III of 1917.

An index to the volume is as usual appended.

S. C. GUPTA,

*Legal Assistant, Legislative Department,
Government of India.*

SIMLA :

The 20th June, 1919.

LIST OF ABBREVIATIONS USED.

| | |
|-----------------------------------|--|
| Aj. Code | For Ajmer Code. |
| Bal. Code | „ Baluchistan Code. |
| Ben. Code | „ Bengal Code. |
| Bom. Code | „ Bombay Code. |
| Bur. Code | „ Burma Code. |
| B. & O Code | „ Bihar and Orissa Code. |
| C. P. Code | „ Central Provinces Code. |
| Mad. Code | „ Madras Code. |
| Punj. and N.-W. F. Code | „ Punjab and North-West Frontier Code. |
| U. P. Code | „ United Provinces Code. |
| Coll. Stat. | „ Collection of Statutes relating to India. |
| Gen. R. and O. | „ General Statutory Rules and Orders. |
| Ben. R. and O. | „ Bengal List of Local Statutory Rules and Orders. |
| Bom R. and O. | „ Bombay List of Local Rules and Orders. |
| C. P. R. and O. | „ Central Provinces List of Local Rules and Orders. |
| Mad. R. and O. | „ Madras List of Local Rules and Orders. |
| Punj. R. and O. | „ Punjab List of Local Rules and Orders. |
| U. P. R. and O. | „ United Provinces List of Local Rules and Orders. |
| Assam R. and O. | „ Assam Local Statutory Rules and Orders. |
| Bur. R. M. | „ Burma Rules Manual. |
| Brit Enacts. N. S. | „ British Enactments in force in Native States. |
| Leg. and O. W. | „ Legislation and Orders relating to the War. |
| Rep. | „ Repealed. |
| Am. | „ Amended. |
| Sch. | „ Schedule. |

**CHRONOLOGICAL TABLE OF ALL THE UNREPEALED
ACTS OF THE GOVERNOR GENERAL IN COUNCIL
FROM THE YEAR 1914 TO THE 31ST MARCH, 1919.**

(The figures in column 5 refer to the pages of this volume.)

| 1 | 2 | 3 | 4 | 5 |
|-------|------|--|--|------------------|
| Year. | No. | Short title. | How repealed or otherwise affected by legislation. | Where published. |
| 1914 | I | The Code of Civil Procedure (Amendment) Act, 1914. | ..... | p. 1 |
| " | II | The Destructive Insects and Pests Act, 1914. | ..... | p. 2 |
| " | III | The Indian Copyright Act, 1914. | ..... | p. 3 |
| " | IV | The Decentralization Act, 1914. | Sch., pt. I, am., Act XVII of 1914. Rep. (as to Act II of 1886), Act VII of 1918. | p. 35 |
| " | V | The Negotiable Instruments (Amendment) Act, 1914. | ..... | p. 48 |
| " | VI | The Provincial Small Cause Courts (Amendment) Act, 1914. | ..... | p. 48 |
| " | VII | The Indian Telegraph (Amendment) Act, 1914. | ..... | p. 49 |
| " | VIII | The Indian Motor Vehicles Act, 1914. | S. 9, proviso, rep. in pt., Act XVII of 1914. S. 15 am., Act XIII of 1916. | p. 53 |
| " | IX | The Local Authorities Loans Act, 1914. | ..... | p. 60 |
| " | X | The Repealing and Amending Act, 1914. | Sch. II, rep. (as to Act XIII of 1891 and Act VII of 1899), Act I of 1917, Sch. II. | p. 64 |

*Chronological Table.*UNREPEALED ACTS OF THE GOVERNOR GENERAL IN
COUNCIL—*contd.*

| 1 | 2 | 3 | 4 | 5 |
|-------|------|--|---|--------------------------------|
| Year. | No. | Short title. | How repealed or otherwise affected by legislation | Where published. |
| 1914 | XI | The Indian Companies (Amendment) Act, 1914. | ..... | p. 86 |
| " | XII | The Sea Customs (Amendment) Act, 1914 | ..... | p. 88 |
| " | XIII | The Indian Life Assurance Companies (Amendment) Act, 1914. | ..... | p. 90 |
| " | XIV | The Indian Post Office and Telegraph (Amendment) Act, 1914. | ..... | p. 90 |
| " | XV | The Indian Army (Amendment) Act, 1914. | ..... | p. 91 |
| " | XVI | The Indian Aircraft (Amendment) Act, 1914. | ..... | p. 92 |
| " | XVII | The Second Repealing and Amending Act, 1914. | Sch. I, rep. in pt., Act IV of 1916, s. 5. | p. 94 |
| 1915 | I | ¹ The Emergency Legislation Continuance Act, 1915. | ..... | p. 99 |
| " | II | The Sir Sassoon Jacob David Baronetcy Act, 1915. | ..... | Private Act (not republished). |
| " | III | The Foreigners (Amendment) Act, 1915. | ... .. | p. 100 |
| " | IV | ¹ The Defence of India Criminal Law (Amendment) Act, 1915. | S 2 am., Act II of 1916, s. 2. | p. 102 |
| " | VI | ¹ The Indian Patents and Designs (Temporary Rules) Act, 1915. | ..... | p. 108 |
| " | VII | ² The Delhi Laws Act, 1915. | ..... | p. 109 |

¹ To be in force during the war and for six months thereafter.² No Local Code has been published for Delhi Province.

*Chronological Table.*UNREPEALED ACTS OF THE GOVERNOR GENERAL IN
COUNCIL—*contd.*

| 1 | 2 | 3 | 4 | 5 |
|------|------|--|--|--|
| Year | No. | Short title. | How repealed or otherwise affected by legislation. | Where published. |
| 1915 | VIII | The Assam Labour and Emigration (Amendment) Act, 1915. | Sch., rep. in pt., Act XI of 1915. | Assam Code. Ben. Code. Mad. Code. U. P. Code. } Next edition. B. & O. Code, 1917. C. P. Code, 1918. |
| " | IX | The Sea Customs (Amendment) Act, 1915. | . . . | p. 114 |
| " | X | The Sir Jamsetjee Jejeebhoy Baronetcy Act, 1915. | ..... | Private Act (not republished). |
| " | XI | The Repealing and Amending Act, 1915. | ..... | p. 115 |
| " | XIII | The North-West Frontier Constabulary Act, 1915. | ..... | Punj. and N.-W. F. Code, 1916. |
| " | XIV | ¹ The Enemy Trading Act, 1915. | ..... | p. 117 |
| " | XVI | The Benares Hindu University Act, 1915. | ..... | p. 121 |
| 1916 | I | The Indian Trusts (Amendment) Act, 1916. | ..... | p. 139 |
| " | II | ¹ The Defence of India (Amendment) Act, 1916. | ..... | p. 140 |
| " | III | ¹ The Foreigners' (Trial by Court-martial) Act, 1916. | ..... | p. 140 |
| " | IV | The Indian Tariff (Amendment) Act, 1916. | ..... | p. 142 |
| " | VI | The Indian Ports (Amendment) Act, 1916. | ..... | p. 163 |

¹ To be in force during the war and for six months thereafter.

*Chronological Table.*UNREPEALED ACTS OF THE GOVERNOR GENERAL IN
COUNCIL—*contd.*

| 1 | 2 | 3 | 4 | 5 |
|-------|------|---|--|------------------|
| Year. | No. | Short title. | How repealed or otherwise affected by legislation | Where published. |
| 1916 | VII | The Indian Medical Degrees Act, 1916. | ... | p 166 |
| " | VIII | The Presidency Banks (Amendment) Act, 1916. | ..... | p. 167 |
| " | X | ¹ The Enemy Trading Act, 1916. | ..... | p. 168 |
| " | XI | ¹ The Import and Export of Goods Act, 1916. | ... .. | p. 174 |
| " | XII | The Indian Lunacy (Amendment) Act, 1916. | ..... | p. 175 |
| " | XIII | The Amending Act, 1916 . | ..... | p. 176 |
| " | XIV | ¹ The Indian Bills of Exchange Act, 1916. | S. 2 am., Act IX of 1917. | p. 178 |
| " | XV | The Hindu Disposition of Property Act, 1916. | ..... | p. 179 |
| 1917 | I | The Inland Steam-vessels Act, 1917. | ..... | p. 180 |
| " | II | The Motor Spirit (Duties) Act, 1917. | S. 1 am., Act III of 1919. | p. 203 |
| " | III | ² The Indian Defence Force Act, 1917. | Am., Act VIII of 1918. " Act XIX of 1918. " Act XXI of 1918. " Act VII of 1919. | p. 207 |
| " | IV | ¹ The Indian Army (Suspension of Sentences) Act, 1917. | Am., Act XVIII of 1918. | p 214 |
| " | V | The Destruction of Records Act, 1917. | ..... | p. 217 |
| " | VI | The Indian Tariff (Amendment) Act, 1917. | ..... | p. 219 |
| " | VIII | The Super-tax Act, 1917 . | ..... | p. 221 |

¹ To be in force during the war and for six months thereafter.² To be in force during the war and for one year thereafter.

*Chronological Table.*UNREPEALED ACTS OF THE GOVERNOR GENERAL IN
COUNCIL—*contd.*

| 1 | 2 | 3 | 4 | 5 |
|-------|-------|---|--|--------------------------------|
| Year. | No. | Short title. | How repealed or otherwise affected by legislation. | Where published. |
| 1917 | IX | ¹ The Indian Bills of Exchange (Amendment) Act, 1917. | .... | p. 225 |
| " | X | The Indian Army (Amendment) Act, 1917. | ..... | p. 225 |
| " | XI | ¹ The Indian Paper Currency (Temporary Amendment) Act, 1917. | Am, Act XIX of 1917 as am by Act II of 1919 | p. 227 |
| " | XII | The King of Oudh's Estate Validation Act, 1917. | ..... | Private Act (not republished). |
| " | XIII | The Freight (Railway and Inland Steam-vessel) Tax Act, 1917. | ..... | p. 228 |
| " | XIV | The Prevention of Cruelty to Animals (Amendment) Act, 1917. | . ... | p. 230 |
| " | XV | The Indian Registration (Amendment) Act, 1917. | ..... | p. 231 |
| " | XVI | The Patna University Act, 1917. | Am, B. & O Act II of 1918. | B. & O. Code (next edition). |
| " | XVII | The Government Savings Banks (Amendment) Act, 1917. | ..... | p. 232 |
| " | XVIII | The Post Office Cash Certificates Act, 1917. | ..... | p. 233 |
| " | XIX | ¹ The Indian Paper Currency (Amendment) Act, 1917. | S 2 am., Act II of 1919. | p. 234 |
| " | XX | ² The Indian Transfer of Ships Restriction Act, 1917. | ..... | p. 235 |

¹ To be in force during the war and for six months thereafter² To be in force during the war and for three years thereafter.

*Chronological Table.*UNREPEALED ACTS OF THE GOVERNOR GENERAL IN
COUNCIL—*contd.*

| 1 | 2 | 3 | 4 | 5 |
|-------|-------|--|--|--------------------------------|
| Year. | No. | Short title. | How repealed or otherwise affected by legislation. | Where published. |
| 1917 | XXI | The Indian Trusts (Amendment) Act, 1917. | ... | p. 236 |
| " | XXII | ¹ The Gold (Import) Act, 1917. | ..... | p. 237 |
| " | XXIII | The Presidency Small Cause Courts (Amendment) Act, 1917. | ..... | p. 238 |
| " | XXIV | The Repealing and Amending Act, 1917. | .. .. | p. 238 |
| " | XXV | The Sir Currimbhoy Ebrahim B. & Co. (Amendment) Act, 1917. | . | Private Act (not republished). |
| " | XXVI | The Transfer of Property (Validating) Act, 1917. | ... . | p. 242 |
| 1918 | I | The Indian Forest (Amendment) Act, 1918. | ..... | p. 243 |
| " | II | The Cinematograph Act, 1918. | ..... | p. 245 |
| " | III | The Indigo Cess Act, 1918. | ..... | p. 248 |
| " | IV | The Indian Coinage (Amendment) Act, 1918. | ..... | p. 249 |
| " | V | The Criminal Justice Aden (Amendment) Act, 1918. | .. .. | Bom Code (next edition). |
| " | VII | The Indian Income-tax Act, 1918. | Am., Act IV of 1919. | p. 250 |
| " | VIII | ² The Indian Defence Force (Amendment) Act, 1918. | ..... | p. 274 |
| " | IX | The Indian Soldiers (Litigation) Act, 1918. | .... | p. 275 |

¹ To be in force during the war and for six months thereafter.² To be in force during the war and for one year thereafter.

*Chronological Table.*UNREPEALED ACTS OF THE GOVERNOR GENERAL IN
COUNCIL—*contd.*

| 1 | 2 | 3 | 4 | 5 |
|-------|-------|--|--|------------------|
| Year. | No | Short title. | How repealed or otherwise affected by legislation. | Where published. |
| 1918 | X | The Usurious Loans Act, 1918. | ..... | p. 278 |
| " | XI | The Indian Army (Amendment) Act, 1918. | ..... | p. 281 |
| " | XII | ¹ The Indian Companies Restriction Act, 1918. | ... .. | p. 287 |
| " | XIII | ¹ The Indian Paper Currency Act, 1918. | ... | p. 288 |
| " | XIV | ¹ The Gold Coinage Act, 1918. | . ... | p. 289 |
| " | XV | The Enemy Trading Orders (Validation) Act, 1918. | .. ... | p. 291 |
| " | XVI | The Provisional Collection of Taxes Act, 1918. | ... .. | p. 292 |
| " | XVII | ² The Indian Non-ferrous Metal Industry Act, 1918. | ..... | p. 293 |
| " | XVIII | ¹ The Indian Army (Suspension of Sentences) Amendment Act, 1918. | ..... | p. 298 |
| " | XIX | ³ The Indian Defence Force (Further Amendment) Act, 1918. | ..... | p. 299 |
| " | XX | The Indian Companies (Foreign Interests) Act, 1918. | ... .. | p. 300 |
| " | XXI | ³ The Indian Defence Force (Foreign Service) Amendment Act, 1918. | ..... | p. 301 |
| " | XXII | The Bronze Coin (Legal Tender) Act, 1918. | ..... | p. 302 |
| " | XXIII | The Cotton Cloth Act, 1918 | ..... | p. 303 |

¹ To be in force during the war and for six months thereafter.² To be in force during the war and for five years thereafter.³ To be in force during the war and for one year thereafter.

*Chronological Table.*UNREPEALED ACTS OF THE GOVERNOR GENERAL IN
COUNCIL—*concl'd.*

| 1 | 2 | 3 | 4 | 5 |
|------|------|--|--|-----------------|
| Year | No. | Short title. | How repealed or otherwise affected by legislation. | Where published |
| 1919 | I | The Local Authorities Pensions and Gratuities Act, 1919. | ..... | p. 305 |
| " | II | ¹ The Indian Paper Currency (Amendment) Act, 1919. | ..... | p. 307 |
| " | III | The Motor Spirit (Duties) Amendment Act, 1919. | ..... | p. 308 |
| " | IV | The Indian Income-Tax (Amendment) Act, 1919. | ..... | p. 308 |
| " | V | The Termination of the Present War (Definition) Act, 1919. | ..... | p. 309 |
| " | VI | The Indian Oaths (Amendment) Act, 1919. | ..... | p. 309 |
| " | VII | ² The Indian Defence Force (Amendment) Act, 1919. | ..... | p. 310 |
| " | VIII | The Negotiable Instruments (Amendment) Act, 1919. | ..... | p. 310 |
| " | IX | The Punjab Courts (Supplementing) Act, 1919. | ..... | p. 311 |
| " | X | The Excess Profits Duty Act, 1919 | ..... | p. 311 |
| " | XI | ³ The Anarchical and Revolutionary Crimes Act, 1919 | ..... | p. 320 |

¹ To be in force during the war and for six months thereafter.² To be in force during the war and for one year thereafter.³ To continue in force for three years from the date of termination of the war.

THE
UNREPEALED GENERAL ACTS
OF
THE GOVERNOR GENERAL IN COUNCIL.

ACT No. I OF 1914.¹

[16th January, 1914.]

An Act further to amend the Code of Civil Procedure, 1908.

V of 1908. WHEREAS it is expedient further to amend the ² Code of Civil Procedure, 1908; it is hereby enacted as follows :—

1. This Act may be called the ² Code of Civil Procedure (Amendment) Short title. Act, 1914.

V of 1908. 2. To section 8 of the ² Code of Civil Procedure, 1908 (hereinafter referred to as “the said Code”), the following provisos shall be added, namely :—

Addition of
provisos to
section 8,
Code of Civil
Procedure,
1908.

“ Provided that—

(1) the High Courts of Judicature at Fort William, Madras and Bombay, as the case may be, may from time to time, by notification in the local official Gazette, direct that any such provisions not inconsistent with the express provisions of the ³ Presidency Small Cause Courts Act, 1882, and with such modifications and adaptations as may be specified in the notification, shall extend to suits or proceedings or any class of suits or proceedings in such Court.

XV of 1882. (2) All rules heretofore made by any of the said High Courts under section 9 of the ³ Presidency Small Cause Courts Act, 1882, shall be deemed to have been validly made.”

3. Section 67 of the said Code shall be renumbered section 67 (1) and to the same section the following sub-section (2) shall be added, namely :—

Amendment
of section 67,
Code of Civil
Procedure,
1908.

“(2) When on the date on which this Code came into operation in any local area, any special rules as to sale of land in execution of decrees were in

¹ For Statement of Objects and Reasons, see Gazette of India, 1913, Pt V, p. 148; and for Proceedings in Council, see *ibid*, 1913, Pt. VI, pp. 513, 555; *ibid*, 1914, Pt. VI, p. 123.

² Genl. Acts, Vol. VI.

³ Genl. Acts, Vol. III.

force therein, the Local Government may, by notification in the local official Gazette, declare such rules to be in force, or may, with the previous sanction of the Governor General in Council, by a like notification, modify the same. Every notification issued in the exercise of the powers conferred by this subsection shall set out the rules so continued or modified."

ACT No. II OF 1914.¹

[3rd February, 1914.]

An Act to prevent the introduction into British India of any insect, fungus or other pest, which is or may be destructive to crops.

WHEREAS it is expedient to make provision for preventing the introduction into British India of any insect, fungus or other pest, which is or may be destructive to crops; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Destructive Insects and Pests Act, 1914.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "crops" includes all agricultural or horticultural crops, and trees or bushes;

(b) "import" means the bringing or taking by sea or land; and

(c) "infection" means infection by any insect, fungus or other pest injurious to a crop.

Power of Governor General in Council to regulate or prohibit the import of articles likely to infect.

3. (1) The Governor General in Council may, by ² notification in the Gazette of India, prohibit or regulate, subject to such restrictions and conditions as he may impose, the import into British India, or any part thereof, or any specified place therein, of any article or class of articles likely to cause infection to any crop.

(2) A notification under this section may specify any article or class of articles, either generally or in any particular manner, whether with reference to the country of origin, or the route by which imported or otherwise.

Operation of notification under section 3.

4. A notification under section 3 shall operate as if it had been issued under section 19 of the ³ Sea Customs Act, 1878, and the officers of Customs VIII of 1878. at every port shall have the same powers in respect of any article with regard

¹ For Statement of Objects and Reasons, see Gazette of India, 1913, Pt. V, p. 166; for Report of Select Committee, see *ibid*, 1914, Pt. V, p. 7; and for Proceedings in Council, see *ibid*, 1913, Pt. VI, p. 518, *ibid*, 1914, Pt. VI, pp. 64 and 188.

² For notification under s. 3, see List of Gen. R. and O.

³ Genl. Acts, Vol. II.

to the importation of which such a notification has been issued as they have for the time being in respect of any article the importation of which is regulated, restricted or prohibited by the law relating to Sea Customs, and the law for the time being in force relating to Sea Customs or any such article shall apply accordingly.

5. (1) The Local Government may, subject to the control of the Governor General in Council, make rules for the detention, inspection, disinfection or destruction of any article or class of articles in respect of which a notification has been issued under section 3 or of any article which may have been in contact or proximity thereto, and for regulating the powers and duties of the officers whom it may appoint in this behalf.

(2) In making any rule under this section the Local Government may direct that a breach thereof shall be punishable with fine, which may extend to one thousand rupees.

6. No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act. Protection to persons acting under Act.

THE INDIAN COPYRIGHT ACT, 1914 (III OF 1914).

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PORTIONS OF THE COPYRIGHT ACT APPLICABLE TO BRITISH INDIA.

THE SECOND SCHEDULE.

REPEAL OF ENACTMENTS.

ACT No. III OF 1914.¹

[24th February, 1914.]

An Act to modify and add to the provisions of the Copyright Act, 1911.

WHEREAS it is expedient to modify and add to the provisions of the Copyright Act, 1911, in its application to British India; It is hereby enacted as follows :—

¹ & ² Geo. 5, c. 46.

CHAPTER I.

PRELIMINARY.

Short title
and extent.

1. (1) This Act may be called the Indian Copyright Act, 1914.

¹ For Statement of Objects and Reasons, see Gazette of India, 1913, Pt. V, p. 163; for Report of Select Committee, see *ibid.*, 1914, Pt. V, p. 23; and for Proceedings in Council, see *ibid.*, 1913, Pt. VI, p. 515, *ibid.*, 1914, Pt. VI, pp. 12 and 369.
² Coll. Stat., Vol. II, and *infra*.

(2) It extends to the whole of British India including British Baluchistan, the District of Angul and the Sonthal Parganas.

2. In this Act, unless there is anything repugnant in the subject or Definitions. context,—

(1) “the Copyright Act” means the Act of Parliament entitled the ¹Copyright Act, 1911 : and

(2) words and expressions defined in the Copyright Act have the same meanings as in that Act.

1 & 2 Geo.
5, c. 46.

CHAPTER II.

CONSTRUCTION AND MODIFICATION OF THE COPYRIGHT ACT.

3. In the application to British India of the Copyright Act (a copy of which Act, except such of the provisions thereof as are expressly restricted to the United Kingdom, is set out in the First Schedule), the following modifications shall be made, namely :—

Application
of Copyright
Act to
British India
with adapta-
tions.

(1) the powers of the Board of Trade under section 3 shall, in the case of works first published in British India, be exercised by the Governor General in Council ;

(2) the powers of the Board of Trade under section 19 shall, as regards records, perforated rolls and other contrivances, the original plate of which was made in British India, be exercised by the Governor General in Council ; and the confirmation of Parliament shall not be necessary to the exercise of any of these powers ;

(3) the references in section 19, sub-section (4), and in section 24, sub-section (1), to arbitration shall be read as references to arbitration in accordance with the law for the time being in force in that part of British India in which the dispute occurs ;

(4) as regards works the authors whereof were at the time of the making of the works resident in British India, and as regards works first published in British India, the reference in section 22 to the Patents and Designs Act, 1907, shall be construed as a reference to the ²Indian Patents and Designs Act, 1911, and the reference in the said section to section 86 of the Patents and Designs Act, 1907, shall be construed as a reference to section 77 of the ²Indian Patents and Designs Act, 1911 ;

(5) as regards works first published in British India, the reference in section 24, sub-section (1), proviso (a), to the London Gazette

7 Edw. VII,
c. 29.

II of 1911.

7 Edw. VII,
c. 29.

II of 1911.

¹ Coll. Stat., Vol. II, and *infra*.

² Genl. Acts, Vol. VII.

and two London newspapers shall be construed as a reference to the Gazette of India and two newspapers published in British India ; and the reference in proviso (b) of the same sub-section of the same section to the 26th day of July, 1910, shall, as regards works the authors whereof were at the time of the making of the works resident in British India, and as regards works first published in British India, be construed as a reference to the 30th day of October, 1912.

Modification
of copyright
as regards
translation of
works first
published in
British
India.

4. (1) In the case of works first published in British India, copyright shall be subject to this limitation that the sole right to produce, reproduce, perform or publish a translation of the work shall subsist only for a period of ten years from the date of the first publication of the work :

Provided that if within the said period the author, or any person to whom he has granted permission so to do, publishes a translation of any such work in any language, copyright in such work as regards the sole right to produce, reproduce, perform or publish a translation in that language shall not be subject to the limitation prescribed in this sub-section.

(2) For the purposes of sub-section (1) the expression "author" includes the legal representative of a deceased author.

Musical
works made
by resident
of, or first
published in,
British
India.

5. In the application of the Copyright Act to musical works the authors whereof were at the time of the making of the works resident in British India, or to musical works first published in British India, the term "musical work" shall, save as otherwise expressly provided by the Copyright Act, mean "any combination of melody and harmony, or either of them, which has been reduced to writing."

Importation
of copies.

6. (1) Copies made out of British India of any work in which copyright subsists which if made in British India would infringe copyright, and as to which the owner of the copyright gives notice in writing by himself or his agent to the Chief Customs officer, as defined in the ¹Sea Customs Act, 1878, VIII of 1878. that he is desirous that such copies should not be imported into British India, shall not be so imported, and shall, subject to the provisions of this section, be deemed to be prohibited imports within the meaning of section 18 of the ¹Sea Customs Act, 1878.

VIII of
1878.

(2) Before detaining any such copies, or taking any further proceedings with a view to the confiscation thereof, such Chief Customs officer, or any other officer appointed by the Local Government in this behalf, may require the regulations under this section, whether as to information, security, conditions or other matters, to be complied with, and may satisfy himself, in

¹ Genl. Acts, Vol. II.

accordance with these regulations, that the copies are such as are prohibited by this section to be imported.

(3) The Governor General in Council may, by notification in the Gazette of India, make regulations, either general or special, respecting the detention and confiscation of copies the importation of, which is prohibited by this section, and the conditions, if any, to be fulfilled before such detention and confiscation; and may, by such regulations, determine the information, notices and security to be given, and the evidence requisite for any of the purposes of this section, and the mode of verification of such evidence.

(4) Such regulations may apply to copies of all works the importation of copies of which is prohibited by this section, or different regulations may be made respecting different classes of such works.

(5) The regulations may provide for the informant re-imbursing the Secretary of State for India in Council all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention, and may provide that notices given under the Copyright Act to the Commissioners of Customs and Excise of the United Kingdom, and communicated by that authority to any authority in British India, shall be deemed to have been given by the owner to the said Chief Customs officer.

(6) This section shall have effect as the necessary modification of section 14 of the Copyright Act.

CHAPTER III.

PENALTIES.

7. If any person knowingly—

- (a) makes for sale or hire any infringing copy of a work in which copy-right subsists; or
- (b) sells or lets for hire, or by way of trade exposes or offers for sale or hire, any infringing copy of any such work; or
- (c) distributes infringing copies of any such work, either for the purposes of trade or to such an extent as to affect prejudicially the owner of the copyright; or
- (d) by way of trade exhibits in public any infringing copy of any such work; or
- (e) imports for sale or hire into British India any infringing copy of any such work;

Offences in respect of infringing copies.

he shall be punishable with fine which may extend to twenty rupees for every copy dealt with in contravention of this section, but not exceeding five hundred rupees in respect of the same transaction.

Possession of plates for purpose of making infringing copies.

8. If any person knowingly makes, or has in his possession, any plate for the purpose of making infringing copies of any work in which copyright subsists, or knowingly and for his private profit causes any such work to be performed in public without the consent of the owner of the copyright, he shall be punishable with fine which may extend to five hundred rupees.

Punishment on second conviction.

9. If any person, after having been previously convicted of an offence punishable under section 7 or section 8, is subsequently convicted of an offence punishable under either of these sections, he shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

Power of Court to dispose of infringing copies or plates for purpose of making infringing copies.

10. (1) The Court before which any offence under this Chapter is tried may, whether the alleged offender is convicted or not, order that all copies of the work or all plates in the possession of the alleged offender, which appear to it to be infringing copies, or plates for the purpose of making infringing copies, be destroyed or delivered up to the owner of the copyright, or otherwise dealt with as the Court may think fit.

(2) Any person affected by an order under sub-section (1) may, within thirty days of the date of such order, appeal to the Court to which appeals from the Court making the order ordinarily lie; and such appellate Court may direct that execution of the order be stayed pending consideration of the appeal.

Cognizance of offences.

11. No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence against this Act.

Saving in case of infringement by construction of building.

12. The provisions of this Chapter shall not apply to any case to which section 9 of the Copyright Act, regarding the restrictions on remedies in the case of a work of architecture, applies.

CHAPTER IV.

MISCELLANEOUS.

Courts having civil jurisdiction regarding infringement of copyright.

13. Every suit or other civil proceeding regarding infringement of copyright shall be instituted and tried in the High Court or the Court of the District Judge.

Effect of non-registration under Act XX of 1847.

14. No suit or other civil proceeding instituted after the 30th of October, 1912, regarding infringement of copyright in any book the author whereof was at the time of making the book resident in British India, or of any book first published in British India, shall be dismissed by reason only that the registration of such book had not been effected in accordance with the provisions of the Indian Copyright Act, 1847.

15. The enactments mentioned in the Second Schedule are hereby repealed Repeals.
to the extent specified in the fourth column thereof.

THE FIRST SCHEDULE.

PORTIONS OF THE COPYRIGHT ACT APPLICABLE TO BRITISH INDIA.

(See Section 3.)

COPYRIGHT ACT, 1911.

[1 & 2 GEO. 5, CH. 46.]

ARRANGEMENT OF SECTIONS.

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IMPERIAL COPYRIGHT.

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SECTIONS.

1. Copyright.
2. Infringement of copyright.
3. Term of copyright.
4. Compulsory licences.
5. Ownership of copyright, etc.

Civil Remedies.

6. Civil remedies for infringement of copyright.
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8. Exemption of innocent infringer from liability to pay damages, etc.
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Importation of Copies.

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SECTIONS.

18. Provisions as to Government publications.
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22. Provisions as to designs registrable under 7 Edw. 7, c. 29.
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25. Application of Act to British dominions.
26. Legislative powers of self-governing dominions.
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28. Application to protectorates.

PART II.

INTERNATIONAL COPYRIGHT.

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PART III.

SUPPLEMENTAL PROVISIONS.

31. Abrogation of common law rights.
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34. Saving of compensation to certain libraries.
35. Interpretation.
36. Repeal.
37. Short title and commencement.

SCHEDULES.

CHAPTER 46.

An Act to amend and consolidate the Law relating to Copyright.

[16th December, 1911.]

Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in

THE FIRST SCHEDULE—*contd.*

this present Parliament assembled, and by the authority of the same, as follows :—

PART I.

IMPERIAL COPYRIGHT.

Rights.

1. (1) Subject to the provisions of this Act, copyright shall subsist Copyright.
throughout the parts of His Majesty's dominions to which this Act extends for the term hereinafter mentioned in every original literary, dramatic, musical and artistic work, if—

(a) in the case of a published work, the work was first published within such parts of His Majesty's dominions as aforesaid ; and

(b) in the case of an unpublished work, the author was at the date of the making of the work a British subject or resident within such parts of His Majesty's dominions as aforesaid ;

but in no other works, except so far as the protection conferred by this Act is extended by Orders in Council thereunder relating to self-governing dominions to which this Act does not extend and to foreign countries.

(2) For the purposes of this Act, "copyright" means the sole right to produce or reproduce the work or any substantial part thereof in any material form whatsoever, to perform, or in the case of a lecture to deliver, the work or any substantial part thereof in public ; if the work is unpublished, to publish the work or any substantial part thereof ; and shall include the sole right—

(a) to produce, reproduce, perform, or publish any translation of the work ;

(b) in the case of a dramatic work, to convert it into a novel or other non-dramatic work ;

(c) in the case of a novel or other non-dramatic work, or of an artistic work, to convert it into a dramatic work, by way of performance in public or otherwise ;

(d) in the case of a literary, dramatic or musical work, to make any record, perforated roll, cinematograph film, or other contrivance by means of which the work may be mechanically performed or delivered ;

and to authorise any such acts as aforesaid.

(3) For the purposes of this Act, publication, in relation to any work, means the issue of copies of the work to the public, and does not include the performance in public of a dramatic or musical work, the delivery in public of a lecture, the exhibition in public of an artistic work, or the construction of

THE FIRST SCHEDULE—*contd.*

an architectural work of art, but, for the purposes of this provision, the issue of photographs and engravings of works of sculpture and architectural works of art shall not be deemed to be publication of such works.

Infringe-
ment of copy-
right.

2. (1) Copyright in a work shall be deemed to be infringed by any person who, without the consent of the owner of the copyright, does anything the sole right to do which is by this Act conferred on the owner of the copyright: Provided that the following acts shall not constitute an infringement of copyright:—

- (i) Any fair dealing with any work for the purposes of private study, research, criticism, review, or newspaper summary:
- (ii) Where the author of an artistic work is not the owner of the copyright therein, the use by the author of any mould, cast, sketch, plan, model, or study made by him for the purpose of the work, provided that he does not thereby repeat or imitate the main design of that work:
- (iii) The making or publishing of paintings, drawings, engravings, or photographs, of a work of sculpture or artistic craftsmanship, if permanently situate in a public place or building, or the making or publishing of paintings, drawings, engravings or photographs (which are not in the nature of architectural drawings or plans) of any architectural work of art:
- (iv) The publication in a collection, mainly composed of non-copyright matter, *bonâ fide* intended for the use of schools, and so described in the title and in any advertisements issued by the publisher, of short passages from published literary works not themselves published for the use of schools in which copyright subsists: Provided that not more than two of such passages from works by the same author are published by the same publisher within five years, and that the source from which such passages are taken is acknowledged:
- (v) The publication in a newspaper of a report of a lecture delivered in public, unless the report is prohibited by conspicuous written or printed notice affixed before and maintained during the lecture at or about the main entrance of the building in which the lecture is given, and, except whilst the building is being used for public worship, in a position near the lecturer, but nothing in this paragraph shall affect the provisions in paragraph (1) as to newspaper summaries:
- (vi) The reading or recitation in public by one person of any reasonable extract from any published work.

THE FIRST SCHEDULE—*contd.*

(2) Copyright in a work shall also be deemed to be infringed by any person who—

- (a) sells or lets for hire, or by way of trade exposes or offers for sale or hire ; or
- (b) distributes either for the purposes of trade or to such an extent as to affect prejudicially the owner of the copyright ; or
- (c) by way of trade exhibits in public ; or
- (d) imports for sale or hire into any part of His Majesty's dominions to which this Act extends,

any work which to his knowledge infringes copyright or would infringe copyright if it had been made within the part of His Majesty's dominions in or into which the sale or hiring, exposure, offering for sale or hire, distribution, exhibition, or importation took place.

(3) Copyright in a work shall also be deemed to be infringed by any person who for his private profit permits a theatre or other place of entertainment to be used for the performance in public of the work without the consent of the owner of the copyright, unless he was not aware, and had no reasonable ground for suspecting, that the performance would be an infringement of copyright.

3. The term for which copyright shall subsist shall, except as otherwise expressly provided by this Act, be the life of the author and a period of fifty years after his death : Term of copyright.

Provided that at any time after the expiration of twenty-five years, or in the case of a work in which copyright subsists at the passing of this Act, thirty years, from the death of the author of a published work, copyright in the work shall not be deemed to be infringed by the reproduction of the work for sale if the person reproducing the work proves that he has given the prescribed notice in writing of his intention to reproduce the work, and that he has paid in the prescribed manner to, or for the benefit of, the owner of the copyright royalties in respect of all copies of the work sold by him calculated at the rate of ten per cent on the price at which he publishes the work ; and, for the purposes of this proviso, the Board of Trade may make ¹ regulations prescribing the mode in which notices are to be given, and the particulars to be given in such notices, and the mode, time, and frequency of the payment of royalties, including (if they think fit) regulations requiring payment in advance or otherwise securing the payment of royalties.

4. If, at any time after the death of the author of a literary, dramatic or musical work which has been published or performed in public, a complaint is made to the Judicial Committee of the Privy Council that the owner of the Compulsory licences.

¹ Regulations called the Indian Copyright Regulations, 1914, have been made under the proviso to s. 3, *see* List of Gen. R. and O.

THE FIRST SCHEDULE—*contd.*

copyright in the work has refused to republish or to allow the republication of the work or has refused to allow the performance in public of the work, and that by reason of such refusal the work is withheld from the public, the owner of the copyright may be ordered to grant a licence to reproduce the work or perform the work in public, as the case may be, on such terms and subject to such conditions as the Judicial Committee may think fit.

Ownership
of copyright,
etc.

5. (1) Subject to the provisions of this Act, the author of a work shall be the first owner of the copyright therein :

Provided that—

(a) where, in the case of an engraving, photograph, or portrait, the plate or other original was ordered by some other person and was made for valuable consideration in pursuance of that order, then, in the absence of any agreement to the contrary, the person by whom such plate or other original was ordered shall be the first owner of the copyright ;

(b) where the author was in the employment of some other person under a contract of service or apprenticeship and the work was made in the course of his employment by that person, the person by whom the author was employed shall, in the absence of any agreement to the contrary, be the first owner of the copyright, but where the work is an article or other contribution to a newspaper, magazine, or similar periodical, there shall, in the absence of any agreement to the contrary, be deemed to be reserved to the author a right to restrain the publication of the work, otherwise than as part of a newspaper, magazine, or similar periodical.

(2) The owner of the copyright in any work may assign the right, either wholly or partially, and either generally or subject to limitations, to the United Kingdom or any self-governing dominion or other part of His Majesty's dominions to which this Act extends, and either for the whole term of the copyright or for any part thereof, and may grant any interest in the right by licence, but no such assignment or grant shall be valid unless it is in writing signed by the owner of the right in respect of which the assignment or grant is made, or by his duly authorised agent :

Provided that, where the author of a work is the first owner of the copyright therein, no assignment of the copyright, and no grant of any interest therein, made by him (otherwise than by will) after the passing of this Act, shall be operative to vest in the assignee or grantee any rights with respect to the copyright in the work beyond the expiration of twenty-five years from the death of the author, and the reversionary interest in the copyright expectant on the termination of that period shall, on the death of the author, notwith-

THE FIRST SCHEDULE—*contd.*

standing any agreement to the contrary, devolve on his legal personal representatives as part of his estate, and any agreement entered into by him as to the disposition of such reversionary interest shall be null and void, but nothing in this proviso shall be construed as applying to the assignment of the copyright in a collective work or a licence to publish a work or part of a work as part of a collective work.

(2) Where, under any partial assignment of copyright, the assignee becomes entitled to any right comprised in copyright, the assignee, as respects the rights so assigned, and the assignor, as respects the rights not assigned, shall be treated for the purposes of this Act as the owner of the copyright, and the provisions of this Act shall have effect accordingly.

Civil Remedies.

6. (1) Where copyright in any work has been infringed, the owner of the copyright shall, except as otherwise provided by this Act, be entitled to all such remedies by way of injunction or interdict, damages, accounts, and otherwise, as are or may be conferred by law for the infringement of a right.

(2) The costs of all parties in any proceedings in respect of the infringement of copyright shall be in the absolute discretion of the Court.

(3) In any action for infringement of copyright in any work, the work shall be presumed to be a work in which copyright subsists and the plaintiff shall be presumed to be the owner of the copyright, unless the defendant puts in issue the existence of the copyright, or, as the case may be, the title of the plaintiff, and where any such question is in issue, then—

- (a) if a name purporting to be that of the author of the work is printed or otherwise indicated thereon in the usual manner, the person whose name is so printed or indicated shall, unless the contrary is proved, be presumed to be the author of the work;
- (b) if no name is so printed or indicated, or if the name so printed or indicated is not the author's true name or the name by which he is commonly known, and a name purporting to be that of the publisher or proprietor of the work is printed or otherwise indicated thereon in the usual manner, the person whose name is so printed or indicated shall, unless the contrary is proved, be presumed to be the owner of the copyright in the work for the purposes of proceedings in respect of the infringement of copyright therein.

7. All infringing copies of any work in which copyright subsists, or of any substantial part thereof, and all plates used or intended to be used for the production of such infringing copies, shall be deemed to be the property of the owner against persons possessing or

THE FIRST SCHEDULE—*contd.*

dealing with
infringing
copies, etc.

Exemption
of innocent
infringer
from liabi-
lity to pay
damages,
etc.

Restriction
on remedies
in the case of
architecture.

Limitation of
actions.

Importation
of copies.

owner of the copyright, who accordingly may take proceedings for the recovery of the possession thereof or in respect of the conversion thereof.

8. Where proceedings are taken in respect of the infringement of the copyright in any work and the defendant in his defence alleges that he was not aware of the existence of the copyright in the work, the plaintiff shall not be entitled to any remedy other than an injunction or interdict in respect of the infringement if the defendant proves that at the date of the infringement he was not aware, and had not reasonable ground for suspecting, that copyright subsisted in the work.

9. (1) Where the construction of a building or other structure which infringes or which, if completed, would infringe the copyright in some other work has been commenced, the owner of the copyright shall not be entitled to obtain an injunction or interdict to restrain the construction of such building or structure or to order its demolition.

(2) Such of the other provisions of this Act as provide that an infringing copy of a work shall be deemed to be the property of the owner of the copyright, or as impose summary penalties, shall not apply in any case to which this section applies.

10. An action in respect of infringement of copyright shall not be commenced after the expiration of three years next after the infringement.

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Importation of copies.

14. (1) Copies made out of the United Kingdom of any work in which copyright subsists which if made in the United Kingdom would infringe copyright, and as to which the owner of the copyright gives notice in writing by himself or his agent to the Commissioners of Customs and Excise, that he is desirous that such copies should not be imported into the United Kingdom, shall not be so imported, and shall, subject to the provisions of this section, be deemed to be included in the table of prohibitions and restrictions contained in section 42 of the Customs Consolidation Act, 1876, and that section shall apply accordingly.

39 & 40
Vict., c. 36.

(2) Before detaining any such copies or taking any further proceedings with a view to the forfeiture thereof under the law relating to the Customs, the Commissioners of Customs and Excise may require the regulations under this section, whether as to information, conditions, or other matters, to be complied with, and may satisfy themselves in accordance with those regulations that the copies are such as are prohibited by this section to be imported.

THE FIRST SCHEDULE—*contd.*

(3) ¹The Commissioners of Customs and Excise may make regulations, either general or special, respecting the detention and forfeiture of copies the importation of which is prohibited by this section, and the conditions, if any, to be fulfilled before such detention and forfeiture, and may, by such regulations, determine the information, notices, and security to be given, and the evidence requisite for any of the purposes of this section, and the mode of verification of such evidence

(4) The regulations may apply to copies of all works the importation of copies of which is prohibited by this section, or different regulations may be made respecting different classes of such works.

(5) The regulations may provide for the informant reimbursing the Commissioners of Customs and Excise all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention; and may provide for notices under any enactment repealed by this Act being treated as notices given under this section.

(6) The foregoing provisions of this section shall have effect as if they were part of the Customs Consolidation Act, 1876: Provided that, notwithstanding anything in that Act, the Isle of Man shall not be treated as part of the United Kingdom for the purposes of this section.

(7) This section shall, with the necessary modifications, apply to the importation into a British possession to which this Act extends of copies of works made out of that possession.

Delivery of Books to Libraries.

15. (1) The publisher of every book published in the United Kingdom shall, within one month after the publication, deliver, at his own expense, a copy of the book to the trustees of the British Museum, who shall give a written receipt for it.

Delivery of
copies to
British
Museum
and other
libraries.

(2) He shall also, if written demand is made before the expiration of twelve months after publication, deliver within one month after receipt of that written demand or, if the demand was made before publication, within one month after publication, to some depôt in London named in the demand a copy of the book for, or in accordance with the directions of the authority having the control of each of the following libraries, namely: the Bodleian Library, Oxford, the University Library, Cambridge, the Library of the Faculty of Advocates at Edinburgh, and the Library of Trinity College, Dublin; and, subject to the provisions of this section, the National Library of Wales. In the case of an encyclopædia, newspaper, review, magazine, or work published in a series of numbers or parts, the written demand may

¹ For regulations under s. 14 (3), applicable to India, see List of Gen. R. and O.

THE FIRST SCHEDULE—*contd.*

include all numbers or parts of the work which may be subsequently published.

(3) The copy delivered to the trustees of the British Museum shall be a copy of the whole book with all maps and illustrations belonging thereto finished and coloured in the same manner as the best copies of the book are published, and shall be bound, sewed, or stitched together, and on the best paper on which the book is printed.

(4) The copy delivered for the other authorities mentioned in this section shall be on the paper on which the largest number of copies of the book is printed for sale, and shall be in the like condition as the books prepared for sale.

(5) The books of which copies are to be delivered to the National Library of Wales shall not include books of such classes as may be specified in regulations to be made by the Board of Trade.

(6) If a publisher fails to comply with this section, he shall be liable on summary conviction to a fine not exceeding five pounds and the value of the book, and the fine shall be paid to the trustees or authority to whom the book ought to have been delivered.

(7) For the purposes of this section, the expression "book" includes every part or division of a book, pamphlet, sheet of letter-press, sheet of music, map, plan, chart or table separately published, but shall not include any second or subsequent edition of a book unless such edition contains additions or alterations either in the letter-press or in the maps, prints, or other engravings belonging thereto.

Special Provisions as to certain Works.

Works of
joint authors.

16. (1) In the case of a work of joint authorship, copyright shall subsist during the life of the author who first dies and for a term of fifty years after his death, or during the life of the author who dies last, whichever period is the longer, and references in this Act to the period after the expiration of any specified number of years from the death of the author shall be construed as references to the period after the expiration of the like number of years from the death of the author who dies first or after the death of the author who dies last, whichever period may be the shorter, and in the provisions of this Act with respect to the grant of compulsory licences a reference to the date of the death of the author who dies last shall be substituted for the reference to the date of the death of the author.

(2) Where, in the case of a work of joint authorship, some one or more of the joint authors do not satisfy the conditions conferring copyright laid down by this Act, the work shall be treated for the purposes of this Act as if the other author or authors had been the sole author or authors thereof :

THE FIRST SCHEDULE—*contd.*

Provided that the term of the copyright shall be the same as it would have been if all the authors had satisfied such conditions as aforesaid.

(3) For the purposes of this Act, "a work of joint authorship" means a work produced by the collaboration of two or more authors in which the contribution of one author is not distinct from the contribution of the other author or authors.

(4) Where a married woman and her husband are joint authors of a work the interest of such married woman therein shall be her separate property.

17. (1) In the case of a literary, dramatic or musical work, or an engraving, in which copyright subsists at the date of the death of the author or, in the case of a work of joint authorship at or immediately before the date of the death of the author who dies last, but which has not been published, nor, in the case of a dramatic or musical work, been performed in public nor, in the case of a lecture, been delivered in public, before that date, copyright shall subsist till publication, or performance or delivery in public, whichever may first happen, and for a term of fifty years thereafter and the proviso to section 3 of this Act shall, in the case of such a work, apply as if the author had died at the date of such publication or performance or delivery in public as aforesaid. Posthumous works.

(2) The ownership of an author's manuscript after his death, where such ownership has been acquired under a testamentary disposition made by the author and the manuscript is of a work which has not been published nor performed in public nor delivered in public, shall be *prima facie* proof of the copyright being with the owner of the manuscript.

18. Without prejudice to any rights or privileges of the Crown, where any work has, whether before or after the commencement of this Act, been prepared or published by or under the direction or control of His Majesty or any Government department, the copyright in the work shall, subject to any agreement with the author, belong to His Majesty, and in such case shall continue for a period of fifty years from the date of the first publication of the work. Provisions as to Government publications.

19. (1) Copyright shall subsist in records, perforated rolls, and other contrivances by means of which sounds may be mechanically reproduced, in like manner as if such contrivances were musical works, but the term of copyright shall be fifty years from the making of the original plate from which the contrivance was directly or indirectly derived, and the person who was the owner of such original plate at the time when such plate was made shall be deemed to be the author of the work, and, where such owner is a body corporate, the body corporate shall be deemed for the purposes of this Act to reside within the parts of His Majesty's dominions to Provisions as to mechanical instruments.

THE FIRST SCHEDULE—*contd.*

which this Act extends if it has established a place of business within such parts.

(2) It shall not be deemed to be an infringement of copyright in any musical work for any person to make, within the parts of His Majesty's dominions to which this Act extends, records, perforated rolls or other contrivances by means of which the work may be mechanically performed, if such person proves—

- (a) that such contrivances have previously been made by, or with the consent or acquiescence of, the owner of the copyright in the work ; and
- (b) that he has given the prescribed notice of his intention to make the contrivances, and has paid in the prescribed manner to, or for the benefit of, the owner of the copyright in the work royalties in respect of all such contrivances sold by him, calculated at the rate hereinafter mentioned :

Provided that—

- (i) nothing in this provision shall authorise any alterations in, or omissions from, the work reproduced, unless contrivances reproducing the work subject to similar alterations and omissions have been previously made by, or with the consent or acquiescence of, the owner of the copyright, or unless such alterations or omissions are reasonably necessary for the adaptation of the work to the contrivances in question ; and
 - (ii) for the purposes of this provision, a musical work shall be deemed to include any words so closely associated therewith as to form part of the same work, but shall not be deemed to include a contrivance by means of which sounds may be mechanically reproduced.
- (3) The rate at which such royalties as aforesaid are to be calculated shall—
- (a) in the case of contrivances sold within two years after the commencement of this Act by the person making the same, be two and one-half per cent.; and
 - (b) in the case of contrivances sold as aforesaid after the expiration of that period, be five per cent.

on the ordinary retail selling price of the contrivance calculated in the prescribed manner, so however that the royalty payable in respect of a contrivance shall, in no case, be less than a half-penny for each separate musical work in which copyright subsists reproduced thereon, and, where the royalty calculated as aforesaid includes a fraction of a farthing, such fraction shall be reckoned as a farthing :

THE FIRST SCHEDULE—*contd.*

Provided that, if, at any time after the expiration of seven years from the commencement of this Act, it appears to the Board of Trade that such rate as aforesaid is no longer equitable, the Board of Trade may, after holding a public inquiry, make an order either decreasing or increasing that rate to such extent as under the circumstances may seem just, but any order so made shall be provisional only and shall not have any effect unless and until confirmed by Parliament; but where an order revising the rate has been so made and confirmed, no further revision shall be made before the expiration of fourteen years from the date of the last revision.

(4) If any such contrivance is made reproducing two or more different works in which copyright subsists and the owners of the copyright therein are different persons, the sums payable by way of royalties under this section shall be apportioned amongst the several owners of the copyright in such proportions as, failing agreement, may be determined by arbitration

(5) When any such contrivances by means of which a musical work may be mechanically performed have been made, then, for the purposes of this section, the owner of the copyright in the work, shall, in relation to any person who makes the prescribed inquiries, be deemed to have given his consent to the making of such contrivances if he fails to reply to such inquiries within the prescribed time.

(6) For the purposes of this section, the Board of Trade may make regulations prescribing anything which under this section is to be prescribed, and prescribing the mode in which notices are to be given and the particulars to be given in such notices, and the mode, time, and frequency of the payment of royalties, and any such regulations may, if the Board think fit, include regulations requiring payment in advance or otherwise securing the payment of royalties.

(7) In the case of musical works published before the commencement of this Act, the foregoing provisions shall have effect, subject to the following modifications and additions:—

(a) The conditions as to the previous making by, or with the consent or acquiescence of the owner of the copyright in the work, and the restrictions as to alterations in or omissions from the work shall not apply :

(b) The rate of two and one-half per cent. shall be substituted for the rate of five per cent. as the rate at which royalties are to be calculated, but no royalties shall be payable in respect of contrivances sold before the 1st day of July, 1913, if contrivances reproducing the same work had been lawfully made, or placed

¹ For regulations under s. 19 (6), applicable to India, see 1 list of Gen. R. and O.

THE FIRST SCHEDULE—*contd.*

on sale, within the parts of His Majesty's dominions to which this Act extends before the 1st day of July, 1910 :

- (c) Notwithstanding any assignment made before the passing of this Act of the copyright in a musical work, any rights conferred by this Act in respect of the making, or authorising the making of contrivances by means of which the work may be mechanically performed shall belong to the author or his legal personal representatives and not to the assignees, and the royalties aforesaid shall be payable to, and for the benefit of, the author of the work or his legal personal representatives :
- (d) The saving contained in this Act of the rights and interests arising from, or in connexion with, action taken before the commencement of this Act shall not be construed as authorising any person who has made contrivances by means of which the work may be mechanically performed to sell any such contrivances, whether made before or after the passing of this Act, except on the terms and subject to the conditions laid down in this section .
- (e) Where the work is a work on which copyright is conferred by an Order in Council relating to a foreign country, the copyright so conferred shall not, except to such extent as may be provided by the Order, include any rights with respect to the making of records, perforated rolls or other contrivances by means of which the work may be mechanically performed.

(8) Notwithstanding anything in this Act where a record, perforated roll, or other contrivance by means of which sounds may be mechanically reproduced has been made before the commencement of this Act, copyright shall, as from the commencement of this Act, subsist therein in like manner and for the like term as if this Act had been in force at the date of the making of the original plate from which the contrivance was directly or indirectly derived .

Provided that—

- (i) the person who, at the commencement of this Act, is the owner of such original plate shall be the first owner of such copyright ;
and
- (ii) nothing in this provision shall be construed as conferring copyright in any such contrivance if the making thereof would have infringed copyright in some other such contrivance, if this provision had been in force at the time of the making of the first-mentioned contrivance.

THE FIRST SCHEDULE—*contd.*

20. Notwithstanding anything in this Act it shall not be an infringement of copyright in an address of a political nature delivered at a public meeting to publish a report thereof in a newspaper. Provision as to political speeches.

21. The term for which copyright shall subsist in photographs shall be fifty years from making of the original negative from which the photograph was directly or indirectly derived, and the person who was owner of such negative at the time when such negative was made shall be deemed to be the author of the work, and, where such owner is a body corporate the body corporate shall be deemed for the purposes of this Act to reside within the parts of His Majesty's dominions to which this Act extends if it has established a place of business within such parts. Provision as to photographs.

22. (1) This Act shall not apply to designs capable of being registered under the Patents and Designs Act, 1907, except designs which, though capable of being so registered, are not used or intended to be used as models or patterns to be multiplied by any industrial process. Provisions as to designs registrable under 7 Edw. 7, c. 20.

(2) General rules under section 86 of the Patents and Designs Act, 1907, may be made for determining the conditions under which a design shall be deemed to be used for such purposes as aforesaid.

23. If it appears to His Majesty that a foreign country does not give, or has not undertaken to give, adequate protection to the works of British authors, it shall be lawful for His Majesty by Order in Council to direct that such of the provisions of this Act as confer copyright on works first published within the parts of His Majesty's dominions to which this Act extends, shall not apply to works published after the date specified in the Order, the authors whereof are subjects or citizens of such foreign country, and are not resident in His Majesty's dominions, and thereupon those provisions shall not apply to such works. Works of foreign authors first published in parts of His Majesty's dominions to which Act extends.

24. (1) Where any person is immediately before the commencement of this Act entitled to any such right in any work as is specified in the first column of the First Schedule to this Act, or to any interest in such a right, he shall, as from that date, be entitled to the substituted right set forth in the second column of that schedule, or to the same interest in such a substituted right, and to no other right or interest, and such substituted right shall subsist for the term for which it would have subsisted if this Act had been in force at the date when the work was made and the work had been one entitled to copyright thereunder : Existing works.

Provided that—

- (a) if the author of any work in which any such right as is specified in the first column of the First Schedule to this Act subsists at the commencement of this Act has, before that date, assigned the

THE FIRST SCHEDULE—*contd.*

right or granted any interest therein for the whole term of the right, then at the date when, but for the passing of this Act, the right would have expired the substituted right conferred by this section shall, in the absence of express agreement, pass to the author of the work, and any interest therein created before the commencement of this Act and then subsisting shall determine; but the person who immediately before the date at which the right would have so expired was the owner of the right or interest shall be entitled at his option either—

- (i) on giving such notice as hereinafter mentioned, to an assignment of the right or the grant of a similar interest therein for the remainder of the term of the right for such consideration as, failing agreement, may be determined by arbitration; or
- (ii) without any such assignment or grant, to continue to reproduce or perform the work in like manner as theretofore subject to the payment, if demanded by the author within three years after the date at which the right would have so expired, of such royalties to the author as, failing agreement, may be determined by arbitration, or, where the work is incorporated in a collective work and the owner of the right or interest is the proprietor of that collective work, without any such payment;

The notice above referred to must be given not more than one year nor less than six months before the date at which the right would have so expired, and must be sent by registered post to the author, or, if he cannot with reasonable diligence be found, advertised in the London Gazette and in two London newspapers;

- (b) where any person has, before the 26th day of July, 1910, taken any action whereby he has incurred any expenditure or liability in connexion with the reproduction or performance of any work in a manner which at the time was lawful, or for the purpose of or with a view to the reproduction or performance of a work at a time when such reproduction or performance would, but for the passing of this Act, have been lawful, nothing in this section shall diminish or prejudice any rights or interest arising from or in connexion with such action which are subsisting and valuable at the said date, unless the person who by virtue of this section becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by arbitration.

THE FIRST SCHEDULE—*contd.*

(2) For the purposes of this section, the expression "author" includes the legal personal representatives of a deceased author.

(3) Subject to the provisions of section 19, sub-sections (7) and (8) and of section 33 of this Act, copyright shall not subsist in any work made before the commencement of this Act, otherwise than under, and in accordance with, the provisions of this section.

Application to British Possessions.

25. (1) This Act, except such of the provisions thereof as are expressly restricted to the United Kingdom, shall extend throughout His Majesty's dominions: Provided that it shall not extend to a self-governing dominion, unless declared by the Legislature of that dominion to be in force therein either without any modifications or additions, or with such modifications and additions relating exclusively to procedure and remedies, or necessary to adapt this Act to the circumstances of the dominion, as may be enacted by such Legislature. Application of Act to British dominions.

(2) If the Secretary of State certifies by notice published in the London Gazette that any self-governing dominion has passed legislation under which works, the authors whereof were at the date of the making of the works British subjects resident elsewhere than in the dominion or (not being British subjects) were resident in the parts of His Majesty's dominions to which this Act extends, enjoy within the dominion rights substantially identical with those conferred by this Act, then, whilst such legislation continues in force, the dominion shall, for the purposes of the rights conferred by this Act, be treated as if it were a dominion to which this Act extends; and it shall be lawful for the Secretary of State to give such a certificate as aforesaid, notwithstanding that the remedies for enforcing the rights, or the restrictions on the importation of copies of works, manufactured in a foreign country, under the law of the dominion, differ from those under this Act.

26. (1) The Legislature of any self-governing dominion may, at any time, repeal all or any of the enactments relating to copyright passed by Parliament (including this Act) so far as they are operative within that dominion: Provided that no such repeal shall prejudicially affect any legal rights existing at the time of the repeal, and that, on this Act or any part thereof being so repealed by the Legislature of a self-governing dominion that dominion shall cease to be a dominion to which this Act extends. Legislative powers of self-governing dominions.

THE FIRST SCHEDULE—*contd.*

(2) In any self-governing dominion to which this Act does not extend, the enactments repealed by this Act shall, so far as they are operative in that dominion, continue in force until repealed by the Legislature of that dominion.

(3) Where His Majesty in Council is satisfied that the law of a self-governing dominion to which this Act does not extend provides adequate protection within the dominion for the works (whether published or unpublished) of authors who at the time of the making of the work were British subjects resident elsewhere than in that dominion, His Majesty in Council may, for the purpose of giving reciprocal protection, direct that this Act, except such parts (if any) thereof as may be specified in the Order, and subject to any conditions contained therein, shall, within the parts of His Majesty's dominions to which this Act extends, apply to works the authors whereof were, at the time of the making of the work, resident within the first-mentioned dominion, and to works first published in that dominion; but save as provided by such an Order, works the authors whereof were resident in a dominion to which this Act does not extend shall not, whether they are British subjects or not, be entitled to any protection under this Act except such protection as is by this Act conferred on works first published within the parts of His Majesty's dominions to which this Act extends:

Provided that no such Order shall confer any rights within a self-governing dominion, but the Governor in Council of any self-governing dominion to which this Act extends may, by Order, confer within that dominion the like rights as His Majesty in Council is under the foregoing provisions of this sub-section, authorised to confer within other parts of His Majesty's dominions.

For the purposes of this sub-section, the expression "a dominion to which this Act extends" includes a dominion which is for the purposes of this Act to be treated as if it were a dominion to which this Act extends.

Power of
Legislatures
of British
possessions
to pass
supplemental
legislation.

27. The Legislature of any British possession to which this Act extends may modify or add to any of the provisions of this Act in its application to the possession, but except so far as such modifications and additions relate to procedure and remedies, they shall apply only to works the authors whereof were, at the time of the making of the work, resident in the possession, and to works first published in the possession.

Application
to protect-
orates.

28. His Majesty may, by Order in Council, extend this Act to any territories under his protection and to Cyprus, and on the making of any such Order, this Act shall, subject to the provisions of the Order, have effect as if the territories to which it applies or Cyprus were part of His Majesty's dominion to which this Act extends.

THE FIRST SCHEDULE—*contd.*

PART II.

INTERNATIONAL COPYRIGHT.

29 (1) His Majesty may, by Order in Council, direct that this Act ^{Power to extend Act to foreign works.} (except such parts, if any, thereof as may be specified in the Order) shall apply—

- (a) to works first published in a foreign country to which the Order relates, in like manner as if they were first published within the parts of His Majesty's dominions to which this Act extends ;
 - (b) to literary, dramatic, musical and artistic works, or any class thereof, the authors whereof were, at the time of the making of the works, subjects or citizens of a foreign country to which the Order relates, in like manner as if the authors were British subjects ;
 - (c) in respect of residence in a foreign country to which the Order relates in like manner as if such residence were residence in the parts of His Majesty's dominions to which the Act extends ;
- and thereupon, subject to the provisions of this Part of this Act and of the Order, this Act shall apply accordingly :

Provided that—

- (i) before making an Order in Council under this section in respect of any foreign country (other than a country with which His Majesty has entered into a convention relating to copyright), His Majesty shall be satisfied that that foreign country has made, or has undertaken to make, such provisions, if any, as it appears to His Majesty expedient to require for the protection of works entitled to copyright under the provisions of Part I of this Act ;
- (ii) the Order in Council may provide that the terms of copyright within such parts of His Majesty's dominions as aforesaid shall not exceed that conferred by the law of the country to which the Order relates ;
- (iii) the provisions of this Act as to the delivery of copies of books shall not apply to works first published in such country, except so far as is provided by the Order ;
- (iv) the Order in Council may provide that the enjoyment of the rights conferred by this Act shall be subject to the accomplishment of such conditions and formalities (if any) as may be prescribed by the Order ;
- (v) in applying the provisions of this Act as to ownership of copyright, the Order in Council may make such modifications as appear necessary having regard to the law of the foreign country ;

THE FIRST SCHEDULE—*contd.*

- (vi) in applying the provisions of this Act as to existing works, the Order in Council may make such modifications as appear necessary, and may provide that nothing in those provisions as so applied shall be construed as reviving any right of preventing the production or importation of any translation in any case where the right has ceased by virtue of section 5 of the International Copyright Act, 1886. 49 & 50
Vict., c. 33.

(2) An Order in Council under this section may extend to all the several countries named or described therein.

Application
of Part II
to British
possessions.

30. (1) An Order in Council under this Part of this Act shall apply to all His Majesty's dominions to which this Act extends except self-governing dominions and any other possessions specified in the Order with respect to which it appears to His Majesty expedient that the Order should not apply.

(2) The Governor in Council of any self-governing dominion to which this Act extends may, as respects that dominion, make the like Orders as under this Part of this Act His Majesty in Council is authorised to make with respect to His Majesty's dominions other than self-governing dominions and the provisions of this Part of this Act shall, with necessary modifications, apply accordingly

(3) Where it appears to His Majesty expedient to except from the provisions of any Order any part of his dominions, not being a self-governing dominion, it shall be lawful for His Majesty by the same or any other Order in Council to declare that such Order and this Part of this Act shall not, and the same shall not, apply to such part, except so far as is necessary for preventing any prejudice to any rights acquired previously to the date of such Order.

PART III.

SUPPLEMENTAL PROVISIONS.

Abrogation
of common
law rights.

31. No person shall be entitled to copyright or any similar right in any literary, dramatic, musical or artistic work, whether published or unpublished, otherwise than under and in accordance with the provisions of this Act, or of any other statutory enactment for the time being in force, but nothing in this section shall be construed as abrogating any right or jurisdiction to restrain a breach of trust or confidence.

Provisions as
to Orders in
Council.

32. (1) His Majesty in Council may make Orders for altering, revoking, or varying any Order in Council made under this Act, or under any enactments repealed by this Act, but any Order made under this section shall not affect prejudicially any rights or interests acquired or accrued at the date

THE FIRST SCHEDULE—*contd.*

when the Order comes into operation, and shall provide for the protection of such rights and interests.

(2) Every Order in Council made under this Act shall be published in the London Gazette and shall be laid before both Houses of Parliament as soon as may be after it is made, and shall have effect as if enacted in this Act.

15 Geo. 3,
c. 58.

33. Nothing in this Act shall deprive any of the universities and colleges mentioned in the Copyright Act, 1775, of any copyright they already possess under that Act, but the remedies and penalties for infringement of any such copyright shall be under this Act and not under that Act. Saving of University copyright.

34. There shall continue to be charged on, and paid out of, the Consolidated Fund of the United Kingdom such annual compensation as was immediately before the commencement of this Act payable in pursuance of any Act as compensation to a library for the loss of the right to receive gratuitous copies of books : Saving of compensation to certain libraries.

Provided that this compensation shall not be paid to a library in any year, unless the Treasury are satisfied that the compensation for the previous year has been applied in the purchase of books for the use of and to be preserved in the library.

35. (1) In this Act, unless the context otherwise requires,—

Interpre-
tation.

“Literary work” includes maps, charts, plans, tables, and compilations ;

“Dramatic work” includes any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting form of which is fixed in writing or otherwise, and any cinematograph production where the arrangement or acting form or the combination of incidents represented give the work an original character ;

“Artistic work” includes works of painting, drawing, sculpture and artistic craftsmanship, and architectural works of art and engravings and photographs ;

“Work of sculpture” includes casts and models ;

“Architectural work of art” means any building or structure having an artistic character or design, in respect of such character or design, or any model for such building or structure, provided that the protection afforded by this Act shall be confined to the artistic character and design, and shall not extend to processes or methods of construction ;

“Engravings” include etchings, lithographs, wood-cuts, prints, and other similar works, not being photographs ;

THE FIRST SCHEDULE—*contd.*

“Photograph” includes photo-lithograph and any work produced by any process analogous to photography ;

“Cinematograph” includes any work produced by any process analogous to cinematography ;

“Collective work” means—

- (a) an encyclopædia, dictionary, year-book, or similar work ;
- (b) a newspaper, review, magazine, or similar periodical ; and
- (c) any work written in distinct parts by different authors, or in which works or parts of works of different authors are incorporated ;

“Infringing,” when applied to a copy of a work in which copyright subsists, means any copy, including any colourable imitation made or imported in contravention of the provisions of this Act ;

“Performance” means any acoustic representation of a work and any visual representation of any dramatic action in a work, including such a representation made by means of any mechanical instrument ;

“Delivery,” in relation to a lecture, includes delivery by means of any mechanical instrument ;

“Plate” includes any stereotype or other plate, stone, block, mould, matrix, transfer, or negative used or intended to be used for printing or reproducing copies of any work, and any matrix or other appliance by which records, perforated rolls or other contrivances for the acoustic representation of the work are or are intended to be made ;

“Lecture” includes address, speech, and sermon ;

“Self-governing dominion” means the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and Newfoundland

(2) For the purposes of this Act (other than those relating to infringements of copyright), a work shall not be deemed to be published or performed in public, and a lecture shall not be deemed to be delivered in public, if published, performed in public, or delivered in public, without the consent or acquiescence of the author, his executors, administrators or assigns.

(3) For the purposes of this Act, a work shall be deemed to be first published within the parts of His Majesty’s dominions to which this Act extends, notwithstanding that it has been published simultaneously in some other place, unless the publication in such parts of His Majesty’s dominions as aforesaid is colourable only and is not intended to satisfy the reasonable requirements of the public, and a work shall be deemed to be published

THE FIRST SCHEDULE—*contd.*

simultaneously in two places if the time between the publication in one such place and the publication in the other place does not exceed fourteen days, or such longer period as may, for the time being, be fixed by Order in Council.

(4) Where, in the case of an unpublished work, the making of a work has extended over a considerable period, the conditions of this Act conferring copyright shall be deemed to have been complied with, if the author was, during any substantial part of that period, a British subject or a resident within the parts of His Majesty's dominions to which this Act extends.

(5) For the purposes of the provisions of this Act as to residence, an author of a work shall be deemed to be a resident in the parts of His Majesty's dominions to which this Act extends if he is domiciled within any such part.

36. Subject to the provisions of this Act, the enactments mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule :

Repeal.

Provided that this repeal shall not take effect in any part of His Majesty's dominions until this Act comes into operation in that part.

37. (1) This Act may be cited as the Copyright Act, 1911.

(2) This Act shall come into operation—

Short title
and com-
mencement.

(a) in the United Kingdom, on the 1st day of July, 1912, or such earlier date as may be fixed by Order in Council ;

(b) in a self-governing dominion to which this Act extends, at such date as may be fixed by the Legislature of that dominion ;

(c) in the Channel Islands, at such date as may be fixed by the States of those Islands respectively ;

(d) in any other British possession to which this Act extends, on the proclamation thereof within the possession by the Governor.

SCHEDULES.

FIRST SCHEDULE.

(Section 24)

EXISTING RIGHTS.

| Existing Right. | Substituted Right. |
|-----------------|--------------------|
|-----------------|--------------------|

(a) *In the case of Works other than Dramatic and Musical Works.*

| | |
|-----------|--|
| Copyright | . . . . . \| Copyright as defined by this Act.* |
|-----------|--|

(b) *In the case of Musical and Dramatic Works.*

| | |
|-------------------------------------|--|
| Both copyright and performing right | . \| Copyright as defined by this Act.* |
| Copyright, but not performing right | . \| Copyright as defined by this Act, except the sole right to perform the work or any substantial part thereof in public. |
| Performing right, but not copyright | . \| The sole right to perform the work in public, but none of the other rights comprised in copyright as defined by this Act |

*In the case of an essay, article, or portion forming part of and first published in a review, magazine or other periodical or work of a like nature, the work shall be subject to any right of publishing the essay, article, or portion in a separate form to which the author is entitled at the commencement of this Act, or would if this Act had not been passed, have become entitled under section eighteen of the Copyright Act, 1842.

For the purposes of this Schedule the following expressions, where used in the first column thereof, have the following meanings :—

“Copyright,” in the case of a work which according to the law in force immediately before the commencement of this Act has not been published before that date and statutory copyright wherein depends on publication, includes the right at common law (if any) to restrain publication or other dealing with the work ;

“Performing right,” in the case of a work which has not been performed in public before the commencement of this Act, includes the right at common law (if any) to restrain the performance thereof in public.

SECOND SCHEDULE.

ENACTMENTS REPEALED.

Section 36.

| Session and Chapter. | Short Title. | Extent of Repeal. |
|------------------------|--|---|
| 8 Geo. 2, c. 13 | The Engraving Copyright Act, 1734 . | The whole Act. |
| 7 Geo. 3, c. 38 | The Engraving Copyright Act, 1767 . | Ditto. |
| 15 Geo. 3, c. 53 | The Copyright Act, 1775 . . . | Ditto. |
| 17 Geo. 3, c. 57 | The Prints Copyright Act, 1777 . . | Ditto. |
| 54 Geo. 3, c. 56 | The Sculpture Copyright Act, 1814 . | Ditto. |
| 3 & 4 Will. 4, c. 15. | The Dramatic Copyright Act, 1833 . | Ditto. |
| 5 & 6 Will. 4, c. 65. | The Lectures Copyright Act, 1835 . | Ditto. |
| 6 & 7 Will. 4, c. 59. | The Prints and Engravings Copyright (Ireland) Act, 1836. | Ditto. |
| 6 & 7 Will. 4, c. 110. | The Copyright Act, 1836 . . . | Ditto. |
| 5 & 6 Vict., c. 45 | The Copyright Act, 1842 . . . | Ditto. |
| 7 & 8 Vict., c. 12 | The International Copyright Act, 1844 . | Ditto. |
| 10 & 11 Vict., c. 95. | The Colonial Copyright Act, 1847 . . | Ditto. |
| 15 & 16 Vict., c. 12. | The International Copyright Act, 1852 . | Ditto. |
| 25 & 26 Vict., c. 68. | The Fine Arts Copyright Act, 1862 . | Sections 1 to 6. In section 8 the words "and pursuant to any Act for the protection of copyright engravings," and "and in any such Act as aforesaid." Sections 9 to 12. |
| 38 & 39 Vict., c. 12. | The International Copyright Act, 1875 . | The whole Act. |
| 39 & 40 Vict., c. 36. | The Customs Consolidation Act, 1876 . | Section 42 from "Books wherein" to "such copyright will expire" Sections 44, 45 and 152. |
| 45 & 46 Vict., c. 40. | The Copyright (Musical Compositions) Act, 1882. | The whole Act. |

SECOND SCHEDULE—*contd.*

ENACTMENTS REPEALED.

| Session and Chapter. | Short Title. | Extent of Repeal. |
|-----------------------|---|---|
| 49 & 50 Vict., c. 33. | The International Copyright Act, 1886 . | The whole Act. |
| 51 & 52 Vict., c. 17. | The Copyright (Musical Compositions) Act, 1888. | Ditto. |
| 52 & 53 Vict., c. 42. | The Revenue Act, 1889 . . . | Section 1, from "Books first published" to "as provided in that section." |
| 6 Edw. 7, c. 86 . | The Musical Copyright Act, 1906 . | In section 3 the words "and which has been registered in accordance with the provisions of the Copyright Act, 1842, or of the International Copyright Act, 1844, which registration may be effected notwithstanding the provisions of the Copyright Act, 1886." |

THE SECOND SCHEDULE.

REPEAL OF ENACTMENTS.

(See section 15.)

| Year. | No. | Short Title. | Extent of Repeal. |
|-------|------|--|--|
| 1847 | XX | The Indian Copyright Act, 1847. | So much as has not already been repealed. |
| 1867 | XXV | The Press and Registration of Books Act, 1867. | In section 18 the following words, namely :— "Every registration under this section shall, upon the payment of the sum of two rupees to the office keeping the said Catalogue, be deemed to be an entry in the Book of Registry kept under Act No. XX of 1847 (for the encouragement of learning in the territories subject to the government of the East India Company, by the defining and providing for the enforcement of the right called copyright therein), and the provisions contained in that Act as to the said Book of Registry shall apply <i>mutatis mutandis</i> to the said Catalogue." |
| 1878 | VIII | The Sea Customs Act, 1878. | Clause (a) of section 18. |

ACT No. IV of 1914.¹

[24th February, 1914.]

An Act to decentralize and otherwise to facilitate the administration of certain enactments.

WHEREAS it is expedient to decentralize and otherwise to facilitate the administration of certain enactments ; It is hereby enacted as follows :—

1. This Act may be called the Decentralization Act, 1914.

Short title.

2. The enactments specified in the third column of the Schedule are hereby amended to the extent and in the manner specified in the fourth column thereof.

Amendment of certain enactments.

3. Any appointment, notification, order, scheme, rule, form or bye-law made or issued by an authority for the making or issuing of which a new authority is substituted by or under this Act, shall, unless inconsistent with this Act, be deemed to have been made or issued by such new authority unless and until superseded by an appointment, notification, order, scheme, rule, form or bye-law made or issued by such new authority.

Saving of orders, etc., issued by previous authorities.

THE SCHEDULE.

PART I.

Acts of the Governor General of India in Council.

| Year. | No. | Short title. | Amendments. |
|-------|-----|--|---|
| 1859 | XI | The Bengal Land Revenue Sales Act, 1859. | <p>1. In section 19 for the words " Board of Revenue " substitute the word " Commissioner " and for the word " they " the word " he "</p> <p>2 In section 26 omit the words " if they see cause may recommend to the Local Government to annul the sale ; and the Local Government in any such case ".</p> <p>3 In section 32 for the word " Government," where that word occurs for the first time, substitute the words " the Board of Revenue."</p> <p>4. In section 49 omit the words " or the Local Government."</p> |
| | XII | The Calcutta Pilots Act, 1859. | In section 17 omit the words " with the sanction of the Governor General in Council " and the words " and sanctioned." |

¹ For Statement of Objects and Reasons, see Gazette of India, 1913, Pt. V, p. 181 ; for Report of Select Committee, see *ibid*, 1914, Pt. V, p. 45 ; and for Proceedings in Council, see *ibid*, 1913, Pt. VI, p. 565, and *ibid*, 1914, Pt. VI, pp. 159 and 372.

THE SCHEDULE.

PART I—*contd.**Acts of the Governor General of India in Council.*

| Year. | No. | Short title. | Amendments. |
|-------|-------|---|--|
| 1859 | XXIV | The Madras District Police Act, 1859. | <p>1. In section 5 omit the words "and who shall receive such salary as the Governor General of India in Council shall allow."</p> <p>2. In section 8 for the words "with the sanction" substitute the words "subject to the control."</p> |
| 1861 | V | The Police Act, 1861 | In section 2 for the word "sanction" substitute the word "control." |
| 1863 | XXIII | The W a s t e - l a n d s (Claims) Act, 1863. | <p>1. In section 5 omit the words "Board of Revenue or other" and insert after the word "authority," where that word occurs for the first time, the words "to which he is immediately subordinate" and omit the words "Board or other," wherever these words occur in the section.</p> <p>2 In sections 4 and 10 omit the words "by the Local Government."</p> <p>3. After section 23 insert the following section —</p> <p>" 23A. In a province for which there is a Board of Revenue or a Financial Commissioner, the powers and duties of the Local Government under sections 6, 10, 22 and 23 may be exercised by such Board or Financial Commissioner, as the case may be."</p> |
| 1872 | IV | The Punjab Laws Act, 1872. | <p>1. In section 39C for the words "with the previous sanction" substitute the words "subject to the control."</p> <p>2. In section 50A for the word "No" substitute the word "All" and for the word "valid" substitute the words "subject to the control of the Governor General in Council and no such rules shall be valid" and omit clause (c).</p> |
| 1873 | III | The Madras Civil Courts Act, 1873. | <p>1. In sections 3 and 4 omit the provisos.</p> <p>2 In section 6 omit the words "or whenever the Governor General in Council has sanctioned an addition to the number of District Judges or Subordinate Judges under the provisions of section 3 or section 1."</p> |

THE SCHEDULE.

PART I—*contd.**Acts of the Governor General of India in Council.*

| Year. | No. | Short title. | Amendments. |
|-------|--------------------|--|---|
| 1873 | III— <i>contd.</i> | The Madras Civil Courts Act, 1873. | <p>3. In section 7 omit the words "or whenever the Governor General in Council has sanctioned an addition to the number of District Munsifs under the provisions of section 4."</p> <p>4. For section 24A the following section shall be substituted :—</p> <p>"24A. (1) The High Court may transfer all or any of the ministerial officers of any Civil Court subject to its superintendence to any other such Court.</p> <p>(2) The District Judge may transfer all or any of the ministerial officers of any Civil Court under his control to any other such Court."</p> <p>5. In section 28 for the words "Local Government" substitute the words "High Court" and omit the words "rupees fifty or on the recommendation of the High Court up to any amount not exceeding".</p> |
| " | VIII | The Northern India Canal and Drainage Act, 1873. | <p>1. In section 65 omit the words "with the previous sanction of the Governor General in Council."</p> <p>2. In section 75 for the words "with the previous sanction" substitute the words "subject to the control" and for the words "with the like sanction" substitute the words "subject to the like control."</p> |
| 1874 | IX | The European Vagrancy Act, 1874. | <p>1. In section 11 omit the words "with the previous sanction of the Governor General in Council."</p> <p>2. In section 14 for the words "with the previous sanction" substitute the words "subject to the control."</p> <p>3. In section 36 for the words "the Governor General in Council" substitute the words "the Local Government subject to the control of the Governor General in Council" and for the words "Gazette of India" substitute the words "local official Gazette."</p> |

THE SCHEDULE.

PART I—*contd.**Acts of the Governor General of India in Council.*

| Year. | No. | Short title. | * Amendments. |
|-------|------|--|---|
| 1876 | VI | The Chota Nagpur Incumbered Estates Act, 1876. | In section 19 after the word "may," where that word occurs for the first time, insert the words "subject to the control of the Governor General in Council" and omit the words "approved by the Governor General in Council and". |
| " | XIX | The Dramatic Performances Act, 1876. | In section 10 omit the words "with the sanction of the Governor General in Council." |
| 1878 | VIII | The Sea Customs Act, 1878. | <ol style="list-style-type: none"> 1. In section 9 omit the words "with the sanction of the Local Government." 2. In sections 11, 12 and 14 after the words "The Local Government" insert the words "or, if so authorised by the Local Government, the Chief Customs-authority." 3. In sections 19A, 53, 75, 76, 79, 83, 85, 96, 116, 130, 144, 147, 148, 151, proviso, and 182, for the words "Local Government," wherever these words occur, substitute the words "Chief Customs-authority." 4. In sections 15, 16, 17, 26, 55, 56, 63, 76, 86, 104, 105, 106, 107, 113, 117, 122, 137, 162, 179 and 199, for the words "Chief Customs-authority" substitute the words "Chief Customs Officer" and for the word "its," when used in relation to the Chief Customs-authority, substitute the word "his." 5. In the proviso to section 42, after the words "Chief Customs-authority" insert the words "or the Chief Customs Officer" and to the said proviso add the following words, namely, "Provided further that the Chief Customs Officer shall not extend the term to a period exceeding three years." 6. In sections 101 and 125, for the words "Chief Customs-authority or such officer of Customs as such authority from time to time appoints in this behalf," substitute the words "Chief Customs Officer." 7. In section 107, for the word "authority" substitute the word "office." 8.* In section 128, for the words "Governor General in Council" substitute the words "Local Government"; and for the words "Gazette of India" substitute the words "local official Gazette." |

THE SCHEDULE.

PART I—*contd.*¹*Acts of the Governor General of India in Council.*

| Year. | No. | Short title. | Amendments. |
|-------|---------------------|----------------------------------|---|
| 1878 | VIII— <i>contd.</i> | The Sea Customs Act, 1878. | <p>9. In section 133, for the words "with the previous sanction" substitute the words "subject to the control."</p> <p>10. In section 164, for the words "the Chief Customs-authority may" substitute the words "the Chief Customs Officer may grant or"; for the words "the Chief Customs-authority" and "such authority," wherever these words occur elsewhere in the section, substitute the words "the Chief Customs Officer"; and for the words "was authorised" substitute the words "was made or authorised."</p> <p>11. In the schedule in section 167 in entries 6 and 7, for the words "Chief Customs-authority" substitute the words "Chief Customs Officer" and in entries 13 and 54 for the words "Local Government" the words "Chief Customs-authority."</p> <p>12. In section 206, for the words "Customs Collector shall, with the sanction of the Chief Customs-authority" substitute the words "Chief Customs Officer or the Customs Collector, with the sanction of the Chief Customs Officer, shall" and add the following proviso, namely :—</p> <p>"Provided that compensation exceeding Rs. 250 shall be paid with the sanction of the Chief Customs-authority."</p> |
| 1 * | * | * | * * * |
| 1879 | XIII | The Oudh Civil Courts Act, 1879. | <p>1. In section 7 omit the words "and with the previous sanction of the Governor General in Council."</p> <p>2. In section 17 for the words "Local Government" substitute the words "Judicial Commissioner", and omit the words "on the recommendation of the Judicial Commissioner."</p> <p>3. In section 24 for the words "Local Government" substitute the words "Judicial Commissioner," and for the word "it," wherever it occurs, substitute the word "he."</p> |

¹ Act III of 1879 having been repealed by Act V of 1917, the entry relating to the former Act is omitted.

THE SCHEDULE.

PART I—*contd.**Acts of the Governor General of India in Council.*

| Year. | No. | Short title. | Amendments. |
|-------|------|--|---|
| 1879 | XIV | The Hackney-carriage Act, 1879. | <p>1. In section 3 for the words "Local Government," wherever these words occur, substitute the word "Commissioner."</p> <p>2. In section 4 omit the words "subject to the control of the Governor General in Council."</p> <p>3. In section 5 for the words "Local Government," where these words occur for the first time, substitute the word "Commissioner."</p> |
| " | XVI | The Transport of Salt Act, 1879. | In section 4 for the words "Governor of Bombay in Council" substitute the words "Chief Customs-authority." |
| 1880 | V | The Burma Boundaries Act, 1880. | In sections 28 and 32 for the words "Chief Commissioner" substitute the words "Financial Commissioner subject to the control of the Local Government." |
| " | XIII | The Vaccination Act, 1880. | <p>1. In section 2, clause (?), omit the words "by the Local Government."</p> <p>2. In sections 4 and 5 for the words "with the previous sanction" substitute the words "subject to the control."</p> <p>3. In sections 8 and 19 for the words "Local Government," wherever they occur in these sections, substitute the word "Commissioner"; and in section 19 before the word "Commissioners," where that word occurs for the second time, insert the word "Municipal."</p> |
| 1881 | XXVI | The Negotiable Instruments Act, 1881. | <p>1. In the definition of "notary public" in section 3 for the words "Governor General in Council" substitute the words "Local Government."</p> <p>2. In sections 138 and 139 for the words "Governor General in Council" substitute the words "Local Government."</p> |
| 1883 | I | The Central Provinces Local Self-government Act, 1883. | In section 32 (1) omit the words "with the previous approval of the Governor General in Council." |
| " | XIX | The Land Improvement Loans Act, 1883. | 1. In section 10 omit the words "subject to the control of the Governor General in Council." |

THE SCHEDULE.

PART I—*contd.**Acts of the Governor General of India in Council.*

| Year. | No. | Short title. | Amendments. |
|-------|--------------------|---------------------------------------|--|
| 1883 | XIX— <i>contd.</i> | The Land Improvement Loans Act, 1883. | 2. After section 11 add the following section — “12. The powers conferred on a Local Government by sections 4 (1), Certain powers of Local Government to be exercised by Board of Revenue or Financial Commissioner, there is a Board of Revenue or a Financial Commissioner, be exercised in the like manner and subject to the like conditions by such Board or Financial Commissioner, as the case may be : Provided that rules made by a Board of Revenue or Financial Commissioner shall be subject to the control of the Local Government.” |
| ” | XX | The Punjab District Boards Act, 1883. | 1. In section 13 for the words “ the Local Government,” wherever they occur, substitute the words “[the Commissioner] 2. In section 36, sub-section (2), after the words “as the,” wherever they occur, insert the words “Local Government, subject to the control of the ”. 3. In section 51 omit the words “with the previous approval of the Governor General in Council ” and the proviso. 4. In section 55 omit the letter and words “ (b) make rules regulating the powers of district boards to make, vary and dispose of investments ” from clause (1) and insert the letter and words “ (b) regulating the powers of district boards to make, vary and dispose of investments ” under clause (2) after the words “make rules for ” ; and to the section, after the words “have been notified ” add the words “Rules made under clause (2) (b) shall be subject to the control of the Governor General in Council.” |
| 1884 | XII | The Agriculturists' Loans Act, 1884. | In section 4, sub-section (1), omit the words “subject to the control of the Governor General in Council,” and after the words “Local Government ” insert the words “or, in a province for which there is a Board of Revenue or Financial Commissioner, such Board or Financial Commissioner, subject to the control of the Local Government.” |

¹ These words were substituted for the word “Commissioner ” by s. 2 and 1st Schedule of the second Repealing and Amending Act, 1914 (XVII of 1914), *infra*.

THE SCHEDULE.

PART I—*contd.**Acts of the Governor General of India in Council.*

| Year. | No. | Short title. | Amendments. |
|-------|-----|--|---|
| 1 * | * | * | * * * |
| 1887 | IX | The Provincial Small Cause Courts Act, 1887. | In sections 5 and 8 omit the words "with the previous sanction of the Governor General in Council." |
| " | XII | The Bengal, Agra and Assam Civil Courts Act, 1887. | <p>1. For section 4 substitute the following section, namely —</p> <p>" 4. The Local Government may alter the number of Subordinate Judges, and Munsifs now fixed and, with the previous sanction of the Governor General in Council, the number of District Judges."</p> <p>2. Omit section 5.</p> <p>3. In section 6 (1) for the words "the Governor General in Council has sanctioned an increase of the number of District Judges or Subordinate Judges" substitute the words "an increase in the number of District or Subordinate Judges has been made under the provisions of section 4."</p> <p>4. In section 7 (2) for the words "with the previous sanction" substitute the words "subject to the control."</p> <p>5. To section 19, sub-section (2), and to sections 25 and 34 (1), add the following proviso, namely:—</p> <p>" Provided that the Local Government may, by notification in the local official Gazette, delegate to the High Court its powers under this section."</p> |
| | XVI | The Punjab Tenancy Act, 1887. | <p>1. In sections 61 (3) and 88 (1) omit the words "with the previous sanction of the Governor General in Council."</p> <p>2. In section 106, sub-section (3), for the words "not take effect until they have been sanctioned by" substitute the words "be made subject to the control of".</p> |

¹ The entry relating to Indian Income-tax Act, 1886 (II of 1886), was repealed by the Indian Income-tax Act, 1918 (VII of 1918), *infra*.

THE SCHEDULE.

PART I—*contd.**Acts of the Governor General of India in Council.*

| Year. | No. | Short title. | Amendments. |
|-------|-------|---|--|
| 1887 | XVII | The Punjab Land Revenue Act, 1887. | <p>1. In section 7, sub-section (1), omit the words "with the previous sanction of the Governor General in Council."</p> <p>2. In section 118 (2), omit the words "to the Commissioner," and for the word "Commissioner," where it occurs for the second time, substitute the words "authority to whom the appeal has been preferred."</p> <p>3. In section 155, sub-section (3), omit the following :—"and rules under clause (c) of sub-section (1) shall not take effect until they have also been confirmed by the Governor General in Council."</p> |
| 1888 | XVIII | The Burma Financial Commissioner's Act, 1888. | In section 2, sub-section (1), omit the words "with the previous sanction of the Governor General in Council." |
| 1890 | I | The Revenue Recovery Act, 1890. | In section 3, sub-section (2), after the word "or" insert the words "or by any officer to whom such Collector may, by order in writing, delegate this duty." |
| 1892 | VII | The Madras City Civil Court Act, 1892. | In section 10 omit the words "and the sanction of the Governor General in Council." |
| 1894 | I | The Land Acquisition Act, 1894. | In section 55, sub-section (1), after the word "shall" insert the words "subject to the control of the Governor General in Council" and in sub-section (3) of the same section omit the words "when sanctioned by the Governor General in Council." |
| 1895 | XIV | The Pilgrim Ships Act, 1895. | In section 58, sub-section (2), omit the words "with the previous sanction of the Governor General in Council." |
| 1896 | II | The Cotton Duties Act, 1896. | <p>1. In sections 12 and 13 for the words "Chief Customs-authority, wherever they occur in those sections, substitute the word "Collector."</p> <p>2. In section 16, sub-section (1), for the words "Local Government," wherever they occur, substitute the words "Chief Customs-authority."</p> |
| " | VIII | The Inland Bonded Warehouses Act, 1896. | In section 7 omit the words "with the previous sanction of the Governor General in Council." |

THE SCHEDULE.

PART I—*contd.**Acts of the Governor General of India in Council.*

| Year. | No. | Short title. | Amendments. |
|-------|------|------------------------------------|---|
| 1897 | VIII | The Reformatory Schools Act, 1897. | In section 5 omit the words "with the previous sanction of the Governor General in Council." |
| 1898 | XIII | The Burma Laws Act, 1898. | In section 5 omit the words "with the previous sanction of the Governor General in Council" and the words "of its own authority." |
| 1899 | II | The Indian Stamp Act, 1899. | <p>1. In section 39, sub-section (1), omit the words "upon application made to him in this behalf or, if no application is made, with the consent of the Chief Controlling Revenue-authority."</p> <p>2. In section 49 for the words "Governor General in Council" substitute the words "Local Government."</p> <p>3. In section 51 after the word "Revenue-authority" insert the words "or the Collector if empowered by the Chief Controlling Revenue-authority in this behalf."</p> <p>4. After section 76 insert a new section, namely—</p> <p>"76A. The Local Government may, by notification in the local official Gazette, delegate—</p> <p>(a) all or any of the powers conferred on it by sections 2 (9), 33 (3) (b), 70 (1), 74 and 78 to the Chief Controlling Revenue-authority ; and</p> <p>(b) all or any of the powers conferred on the Chief Controlling Revenue-authority by sections 45 (1), (2), 56 (1) and 70 (2) to such subordinate Revenue-authority as may be specified in the notification."</p> |
| | VIII | The Indian Petroleum Act, 1899. | To section 5, sub-section (1), after the words "Local Government," add the words "or an officer appointed by the Local Government in this behalf." |
| 1900 | VI | The Lower Burma Courts Act, 1900. | 1. In section 23, sub-section (1), for the words "may be approved by the Governor General in Council" substitute the words "it may think fit." |

THE SCHEDULE.

PART I—*contd.**Acts of the Governor General of India in Council.*

| Year. | No. | Short title. | Amendments. |
|-------|-------------------|--|---|
| 1900 | VI— <i>contd.</i> | The Lower Burma Courts Act, 1900. | 2. In section 23, sub-section (2), omit the words "with the previous sanction of the Governor General in Council" and the words "of its own authority." |
| 1901 | VIII | The Indian Mines Act, 1901. | 1. In section 20, sub-section (1), for the words "with the previous sanction" substitute the words "subject to the control." 2. In section 29 for the words "The Governor General in Council" substitute the words "The Local Government" and for the words "the Gazette of India" the words "the local official Gazette" and for the word "him" substitute the word "it." |
| 1902 | II | The Cantonments (House-accommodation) Act, 1902. | In section 10, sub-section (1), for the words "Local Government" substitute the words "Commissioner, or, in a province where there are no Commissioners, of the Collector." |
| 1903 | XVI | The Central Provinces Municipal Act, 1903. | 1. In section 51, sub-section (3), before the words "the Governor General in Council" insert the words "the Local Government subject to the control of". 2. In section 140, sub-section (1), omit the words "with the previous sanction of the Governor General in Council." |
| 1 * | * | * | * * * |
| 1907 | III | The Provincial Insolvency Act, 1907. | In section 3, sub-section (1), omit the words "with the previous sanction of the Governor General in Council." |
| 1908 | V | The Code of Civil Procedure, 1908. | In section 138, sub-section (1), for the words "Local Government" substitute the words "High Court." |
| " | XIII | The Central Provinces Financial Commissioner's Act, 1908 | In section 2, sub-section (2), omit the words "with the previous sanction of the Governor General in Council." |
| " | XVI | The Indian Registration Act, 1908. | 1 To section 6 the following proviso shall be added, namely :— "Provided that the Local Government may delegate, subject to such restrictions and conditions as it thinks fit, to the Inspector General of Registration the power of appointing Sub-Registrars." |

¹ Act IV of 1904 having been repealed by Act XIII of 1915, the entry relating to the former Act is omitted.

THE SCHEDULE.

PART I—*concl'd.**Acts of the Governor General of India in Council.*

| Year. | No. | Short title. | Amendments. |
|-------|---------------------|------------------------------------|---|
| 1908 | XVI— <i>cont'd.</i> | The Indian Registration Act, 1908. | <p>2. In section 12 for the words "the Local Government fills up the vacancy" substitute the words "the vacancy is filled up."</p> <p>3. In section 13, sub-section (1), before the word "all" insert the words "all appointments made by the Inspector General under section 6 and".</p> <p>4. To section 13 (3) add the words "and the Inspector General of Registration may, subject to such conditions and restrictions as the Local Government may impose, exercise the like power in the case of Sub-Registrars appointed by him."</p> <p>5. In sections 14 and 78 for the word "approval" substitute the word "control."</p> |
| " | XVII | The Indian Emigration Act, 1908. | <p>1. In section 11 for the words "Governor General in Council" substitute the words "Local Government."</p> <p>2. In section 50 for the words "obtained from the Local Government" substitute the words "granted in accordance with the provisions of this Act."</p> <p>3. In section 51, sub-section (1), for the words "through the Protector of Emigrants to the Local Government" substitute the words "to the Protector of Emigrants."</p> <p>4. In section 52, sub-section (2), for the words "Local Government" substitute the words "Protector of Emigrants"; and for the word "it" substitute the word "he."</p> <p>5. In section 53, sub-section (1), clause (a), omit the words "the Protector of Emigrants and".</p> <p>6. In section 102, sub-section (1), for the words "Governor General in Council" substitute the words "Local Government"; and for the words "Gazette of India" substitute the words "local official Gazette."</p> |

THE SCHEDULE.

PART II.

Regulations made by the Governor General of India in Council under section 1 of the Government of India Act, 1870.

| Year. | No. | Short title. | Amendments |
|-------|------|--|--|
| 1887 | VIII | The Ajmer Irrigation Regulation, 1887. | In section 4, sub-section (1), for the words "with the previous sanction" substitute the words "subject to the control." |
| " | XII | The Upper Burma Ruby Regulation, 1887. | 1 In section 4 omit the words "with the previous sanction of the Governor General in Council," wherever they occur. 2 In section 5, sub-section (2), clause (b), insert after the word "directs" the words "and in accordance with such conditions, if any, as to the time, place and mode of payment as it may direct" and omit sub-section (3). |
| 1899 | I | The Coorg Land and Revenue Regulation, 1899. | In section 60, sub-section (1), omit the words "with the previous sanction of the Governor General in Council." |
| 1900 | VI | The Coorg District Fund Regulation, 1900. | 1. In section 3 omit the words "with the previous sanction of the Governor General in Council." 2. In section 9 omit the words "with the sanction of the Governor General in Council." |
| 1907 | II | The Coorg Municipal Regulation, 1907. | 1. In section 50, sub-section (3), before the words "the Governor General in Council" insert the words "the Chief Commissioner, subject to the control of" 2. In section 143, sub-section (1), omit the words "with the previous sanction of the Governor General in Council." |

THE SCHEDULE.

PART III.

Bengal Regulations.

| Year. | No. | Short title. | Amendments. |
|-------|-----|--|--|
| 1799 | V | The Bengal Wills and Intestacy Regulation, 1799. | In section 7, the amendment made by the Repealing and Amending Act, 1903, Schedule II, Part I, is repealed, and for the words "Governor General in Council for his" substitute the words "Board of Revenue, or, in Assam, to the Local Government, for its". |

ACT No. V OF 1914.¹

[24th February, 1914.]

An Act further to amend the Negotiable Instruments Act,
1881.

WHEREAS it is expedient further to amend the ²Negotiable Instruments Act, 1881, so as to remove doubts as to the validity of the making and endorsing of negotiable instruments in certain forms; It is hereby enacted as follows:—

Short title. 1. This Act may be called the Negotiable Instruments (Amendment) Act, 1914.

Amendment of section 13, Act XXVI of 1881. 2. In section 13 of the ²Negotiable Instruments Act, 1881 (hereinafter called the said Act), after the figures "13" insert the figure and signs "XXVI of 1881." " (1) ", and to the same section add the following sub-section, namely:—

" (2) A negotiable instrument may be made payable to two or more payees jointly, or it may be made payable in the alternative to one of two or one or some of several payees."

Amendment of section 16, Act XXVI of 1881. 3. In section 16 of the said Act, after the figures "16" insert the figure and signs " (1) ", and to the same section add the following sub-section, namely:—

" (2) The provisions of this Act relating to a payee shall apply with the necessary modifications to an indorsee."

ACT No. VI OF 1914.³

[25th February, 1914.]

An Act to amend the Provincial Small Cause Courts Act,
1887.

WHEREAS it is expedient to amend the ⁴Provincial Small Cause Courts Act, 1887; It is hereby enacted as follows:—

Short title. 1. This Act may be called the Provincial Small Cause Courts (Amendment) Act, 1914.

¹ For Statement of Objects and Reasons, see Gazette of India, 1913, Pt. V, p. 188; for Report of Select Committee, see *ibid.*, 1914, Pt. V, p. 15; and for Proceedings in Council, see *ibid.*, 1914, Pt. VI, pp. 11, 189 and 376.

² Genl. Acts, Vol. III.

³ For Statement of Objects and Reasons, see Gazette of India, 1913, Pt. V, p. 165; for Report of Select Committee, see *ibid.*, 1914, Pt. V, p. 41; and for Proceedings in Council, see *ibid.*, 1913, Pt. VI, p. 517, and *ibid.*, 1914, Pt. VI, pp. 18 and 438.

⁴ Genl. Acts, Vol. IV.

IX of 1887. 2. In article 35 of the second Schedule of the ¹ Provincial Small Cause Amendment of article 35, Courts Act, 1887 (hereinafter called the said Act), the following amend- Schedule II, ments shall be made, namely :— Act IX of 1887.

(1) After item (v), the following item shall be inserted :—

Act XLV of 1860.

“(vi) for an act which is, or, save for the provisions of Chapter IV of the ² Indian Penal Code, would be, an offence punishable under Chapter XVII of the said Code.”

(2) For item (j) the following shall be substituted, namely :—

“(j) for illegal, improper or excessive distress, attachment or search, or for trespass committed in, or damage caused by, the illegal or improper execution of any distress, search or legal process.”

3. After article 43 of the same Schedule of the said Act, the following article shall be inserted, namely :—

Act XLV of 1860.

“(43A) a suit to recover property obtained by an act which is, or, save for the provisions of Chapter IV of the ² Indian Penal Code, would be, an offence punishable under Chapter XVII of the said Code.”

Insertion of new article 43A, Schedule II, Act IX of 1887.

ACT No. VII of 1914.³

[28th February, 1914.]

An Act further to amend the Indian Telegraph Act, 1885.

XIII of 1885.

WHEREAS it is expedient further to amend the ⁴ Indian Telegraph Act, 1885 ; It is hereby enacted as follows :—

1. This Act may be called the ⁴ Indian Telegraph (Amendment) Act, 1914. Short title.

XIII of 1885.

2. For sub-section (2) of section 1 of the Indian Telegraph Act, 1885 (hereinafter called the said Act), the following shall be substituted, namely :—

“(2) It extends to the whole of British India, including the Sonthal Parganas and the Pargana of Spiti, and it applies also to—

Substitution of new sub-section for section 1 (2), Act XIII, 1885.

(a) all native Indian subjects of His Majesty in any place without and beyond British India,

(b) all other British subjects within the territories of any Native State in India, and

(c) all servants of the King, whether British subjects or not, within the territories of any Native State in India.”

3. In clause (1) of section 3 of the said Act for the words “transmitting or making,” the words “making, transmitting or receiving” shall be substituted.

Amendment of section 3 of the said Act.

¹ Genl. Acts, Vol. IV.

² Genl. Acts, Vol. I.

³ “For Statement of Objects and Reasons, see Gazette of India, 1913, Pt. V, p. 127 ; for Report of Select Committee, see *ibid*, 1914, Pt. V, p. 11 ; and for Proceedings in Council, see *ibid*, 1914, Pt. VI, pp. 11 and 438.

⁴ Genl. Acts, Vol. III.

Addition of further proviso and sub-section (2) to section 4 of the said Act.

4. Section 4 of the said Act shall be renumbered section 4 (1) and after the said sub-section the following proviso and sub-section shall be added, namely :—

“ Provided further that the Governor General in Council may, by rules made under this Act and published in the Gazette of India, permit, subject to such restrictions and conditions as he thinks fit, the establishment, maintenance and working—

(a) of wireless telegraphs on ships within Indian territorial waters, and

(b) of telegraphs other than wireless telegraphs within any part of British India.

“ (2) The Governor General in Council may, by notification in the Gazette of India, delegate to the telegraph authority all or any of his powers under the first proviso to sub-section (1).

“ The exercise by the telegraph authority of any power so delegated shall be subject to such restrictions and conditions as the Governor General in Council may, by the notification, think fit to impose.”

Insertion of new sections 19A and 19B after section 19 of the said Act.

5. After section 19 of the said Act the following sections shall be inserted, namely :—

Person exercising legal right likely to damage telegraph or interfere with telegraphic communication to give notice.

“ 19A. (1) Any person desiring to deal in the legal exercise of a right with any property in such a manner as is likely to cause damage to a telegraph line or post which has been duly placed in accordance with the provisions of this Act, or to interrupt or interfere with telegraphic communication, shall give not less than one month's notice in writing of the intended exercise of such right to the telegraph authority, or to any telegraph officer whom the telegraph authority may empower in this behalf.

“ (2) If any such person without having complied with the provisions of sub-section (1) deals with any property in such a manner as is likely to cause damage to any telegraph line or post, or to interrupt or interfere with telegraphic communication, a Magistrate of the first or second class may, on the application of the telegraph authority, order such person to abstain from dealing with such property in such manner for a period not exceeding one month from the date of his order and forthwith to take such action with regard to such property as may be in the opinion of the Magistrate necessary to remedy or prevent such damage, interruption or interference during such period.

“ (3) A person dealing with any property in the manner referred to in sub-section (1) with the *bona fide* intention of averting imminent danger of per-

sonal injury to himself or any other human being shall be deemed to have complied with the provisions of the said sub-section if he gives such notice of the intended exercise of the right as is in the circumstances possible, or where no such previous notice can be given without incurring the imminent danger referred to above, if he forthwith gives notice of the actual exercise of such right to the authority or officer specified in the said sub-section.

“ 19B. The Governor General in Council may, by notification in the Gazette of India, confer upon any licensee under section 4, in respect of the extent of his licence and subject to any conditions and restrictions which the Governor General in Council may think fit to impose and to the provisions of this Part, all or any of the powers which the telegraph authority possesses under this Part with regard to a telegraph established or maintained by the Government or to be so established or maintained : Power to confer upon licensee powers of telegraph authority under this Part.

“ Provided that the notice prescribed in section 19A shall always be given to the telegraph authority or officer empowered to receive notice under section 20A (1).”

6. For section 20 of the said Act the following section shall be substituted, namely :— Substitution of new section for section 20 of the said Act.

“ 20. (1) If any person establishes, maintains or works a telegraph within British India in contravention of the provisions of section 4 or otherwise than as permitted by rules made under that section, he shall be punished, if the telegraph is a wireless telegraph, with imprisonment which may extend to three years, or with fine, or with both, and, in any other case, with a fine which may extend to one thousand rupees. Establishing, maintaining or working unauthorised telegraph.

V of 1898. “ (2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, offences under this section in respect of a wireless telegraph shall, for the purposes of the said Code, be bailable and non-cognizable.

“ (3) When any person is convicted of an offence punishable under this section, the Court before which he is convicted may direct that the telegraph in respect of which the offence has been committed, or any part of such telegraph, be forfeited to His Majesty.”

7. After section 20 of the said Act the following section shall be inserted, namely :— Insertion of new section 20A after section 20 of the said Act.

“ 20A. If the holder of a licence granted under section 4 contravenes any condition contained in his licence, he shall be punished with fine which may extend to one thousand rupees, and with a further fine which may extend to Breach of condition of licence.

five hundred rupees for every week during which the breach of the condition continues.”

Insertion of
new section
25A after
section 25 of
the said Act.
Injury to or
interference
with a tele-
graph line or
post.

8. After section 25 of the said Act the following section shall be inserted, namely :—

“25A. If, in any case not provided for by section 25, any person deals with any property and thereby wilfully or negligently damages any telegraph line or post duly placed on such property in accordance with the provisions of this Act, he shall be liable to pay the telegraph authority such expenses (if any) as may be incurred in making good such damage, and shall also, if the telegraphic communication is by reason of the damage so caused interrupted, be punishable with a fine which may extend to one thousand rupees :

“Provided that the provisions of this section shall not apply where such damage or interruption is caused by a person dealing with any property in the legal exercise of a right if he has complied with the provisions of section 19A (1).”

Insertion of
new section
29A after
section 29 of
the said Act.

9. After section 29 of the said Act the following section shall be inserted, namely :—

Penalty.

“29A. If any person, without due authority,—

(a) makes or issues any document of a nature reasonably calculated to cause it to be believed that the document has been issued by, or under the authority of, the Director General of Telegraphs, or

(b) makes on any document any mark in imitation of, or similar to, or purporting to be, any stamp or mark of any Telegraph Office under the Director General of Telegraphs, or a mark of a nature reasonably calculated to cause it to be believed that the document so marked has been issued by, or under the authority of, the Director General of Telegraphs,

he shall be punished with fine which may extend to fifty rupees.”

Amendment
of section 34
of the said
Act.

10. In section 34 (1) of the said Act after the figures and word “18, sub-section (1),” the words, figures and letter “and section 19A, sub-section (2),” shall be inserted.

ACT No. VIII OF 1914.¹

[28th February, 1914.]

An Act to consolidate and amend the law relating to motor vehicles in British India.

WHEREAS it is expedient to consolidate and amend the law relating to motor vehicles in British India ; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be called the Indian Motor Vehicles Act, 1914.

Short title,
extent and
commence-
ment.

(2) This Act, except Part III thereof, extends to the whole of British India, including British Baluchistan, the Sonthal Parganas and the Pargana of Spti. Part III extends in the first instance only to the Provinces of Madras, Bombay, Bengal, the United Provinces of Agra and Oudh, the Punjab, Burma, Bihar and Orissa, the North-West Frontier Province and Delhi. The Local Government of any other Province may, by notification in the local official Gazette, ² extend Part III to the whole or any part of such province.

(3) It shall come into force on such ³ date as the Governor General in Council, by notification in the Gazette of India, may direct.¹

2. "Motor vehicle" includes a vehicle, carriage or other means of conveyance propelled, or which may be propelled, on a road by electrical or mechanical power either entirely or partially ;

"prescribed" means prescribed by rules under this Act ;

"public place" means a road, street, way or other place, whether a thoroughfare or not, to which the public are granted access or over which they have a right to pass.

PART II.

PROVISIONS OF GENERAL APPLICATION.

3. (1) No person under the age of eighteen years shall drive a motor vehicle in any public place.

Prohibition
of driving
motor
vehicles by
persons under
18.

¹ For Statement of Objects and Reasons, see Gazette of India, 1913, Pt. V, p. 186 ; for Report of Select Committee, see *ibid*, 1914, Pt. V, p. 59 ; and for Proceedings in Council, see *ibid*, 1913, Pt. VI, p. 566, and *ibid*, 1914, Pt. VI, pp. 61, 325 and 426.

The Act has been declared in force in Angul District by section 5 of Angul Laws Regulation, 1913 (III of 1913), see Bihar and Orissa Gazette, 1913, Pt. II, p. 148.

² For extension of Pt. III of this Act to—

Central Provinces, see Central Provinces Gazette, 1915, Pt. I, p. 496.

British Baluchistan, see Gazette of India, 1913, Pt. II, p. 580.

³ The 1st April, 1915, see Gazette of India, 1915, Pt. I, p. 337.

(2) No owner or person in charge of a motor vehicle shall allow any person under the age of eighteen years to drive the same in any public place; and in the event of a contravention of sub-section (1), the Court may presume that the motor vehicle was driven with the consent of the owner or person in charge.

Duty to stop
vehicle for
regulating
traffic and
in case of
accident.

4. The person in charge of a motor vehicle shall cause the vehicle to stop and to remain stationary so long as may reasonably be necessary—

(a) when required to do so by any police-officer for the purpose of regulating traffic or of ascertaining his name and address with a view to prosecuting such person under this Act or for any purpose connected with the enforcement of the provisions of this Act or the rules thereunder, or

(b) when required to do so by any person having charge of any animal if such person apprehends that the animal is, or will be, alarmed by the motor vehicle, or

(c) when he knows or has reason to believe that an accident has occurred to any person or to any animal or vehicle in charge of a person owing to the presence of the motor vehicle, and he shall also, if so required, give his name and address and the name and address of the owner of such motor vehicle.

Reckless
driving.

5. Whoever drives a motor vehicle in a public place recklessly or negligently, or at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case, including the nature, condition and use of the place, and the amount of traffic which actually is at the time or which might reasonably be expected to be, in the place, shall, on conviction, be punishable with fine which may extend to five hundred rupees

* PART III.

LICENSING AND CONTROL.

Licensing of
drivers.

6. No person shall drive a motor vehicle in a public place unless he is licensed in the prescribed manner, and no owner or person in charge of a motor vehicle shall allow any person who is not so licensed, to drive it :

Provided that, subject to rules made by the Local Government in this behalf, this section shall not apply to a person receiving instruction in driving a motor vehicle.

7. The holder of a licence shall not allow it to be used by any other person. Transfer of licence.

8. The driver of a motor vehicle shall produce his licence upon demand by any police-officer. Production of licence.

9. Every licence to drive a motor vehicle shall be valid in such area as may be specified therein : Extent of validity of licence to drive

Provided that no licence shall specify any area outside the province in which it is granted, unless it is issued ¹ * * * in accordance with such conditions and restrictions as the Governor General in Council may impose.

10. (1) The owner of every motor vehicle shall cause it to be registered in the prescribed manner. Registration of motor vehicles.

(2) Such registration shall be valid in such area as may be specified in the certificate of registration :

Provided that no certificate of registration shall be valid outside the province in which it is granted unless it is issued in accordance with such conditions and restrictions as the Governor General in Council may impose.

11. (1) The Local Government, subject to the condition of previous publication, shall make ² rules for the purpose of carrying into effect the provisions of this Act and of regulating, in the whole or any part of the territories under its administration, the use of motor vehicles or any class of motor vehicles in public places. Power of Local Government to make rules.

(2) In particular, and without prejudice to the generality of the foregoing powers, the Local Government may make rules for all or any of the following purposes, namely :—

- (a) providing for the registration of motor vehicles, and the conditions subject to which such vehicles may be registered, the fees payable in respect of and incidental to registration, the issue of certificates of registration, the notification of any changes of ownership, and (subject to the provisions of section 10), the area in which certificates of registration shall be valid ;
- (b) providing for facilitating the identification of motor vehicles by the assignment of distinguishing numbers to such vehicles and the displaying of number and name plates thereon, or in any other manner ;

¹ The words " by such authority and " were repealed by section 3 and Second Schedule of the Second Repealing and Amending Act, 1914 (XVII of 1914), *infra*.

² For rules under s. 11, see List of Gen. R. and O.

- (c) regulating the construction and equipment of motor vehicles, including the provision and use of lights, bells, horns, brakes, speed-indicators or other appliances ;
- (d) prescribing the authority by which, and the conditions subject to which, drivers of motor vehicles or any class of such drivers may be licensed, the fees payable in respect of such licences, and (subject to the provisions of section 9), the area within which, and the duration for which, licences shall be valid ;
- (e) prescribing the conditions subject to which, and the fees (if any) on payment of which, motor vehicles may be let or plied for hire in public places, generally or in any particular public place ;
- (f) prescribing the precautions to be observed when motor vehicles are standing in any public place ;
- (g) limiting the speed at which motor vehicles may be driven generally or in any particular public place ;
- (h) prohibiting or regulating the driving of motor vehicles in public places, where their use may, in the opinion of the Local Government, be attended with danger or inconvenience to the public ; and
- (i) providing generally for the prevention of danger, injury or annoyance to the public or any person, or of danger or injury to property, or of obstruction to traffic.

(3) All rules made under this section shall be published in the local official Gazette ; and, on such publication, shall have effect as if enacted in this Act.

Posting of notices,

12. The prescribed authority shall give, in the prescribed manner, public notice of any rule, made by the Local Government under section 11, prohibiting or regulating the driving of motor vehicles in any public place ; or limiting the speed of motor vehicles in any such place ; and for the purpose of giving effect to any such rule, shall display conspicuous notices at or near the place to which the rule refers.

Power to Local Government to exclude areas or motor vehicles from this Part.

13. The Local Government may, by notification in the local official Gazette, exclude any area specified in such notification from the operation of this Part ; and may, by a like notification, exempt either generally or for a specified period any motor vehicle or class of motor vehicles from the operation of all or any of the provisions of this Part.

PART IV.

MOTOR VEHICLES TEMPORARILY LEAVING OR VISITING BRITISH INDIA.

14. (1) The Governor General in Council may make ¹ rules for all or any ^{Power of Governor General in Council to make rules.} of the following purposes, namely :—

- (i) for the grant and authentication of any travelling passes, certificates or authorities for the use of persons temporarily taking their motor vehicles out of British India, or to drivers of such vehicles when proceeding out of British India for the purpose of driving such vehicles, and

- (ii) prescribing the conditions subject to which motor vehicles brought temporarily into British India by persons, intending to make a temporary stay there may be possessed, used and driven

(2) All rules made under this section shall be published in the Gazette of India ; and, on such publication, shall have effect as if enacted in this Act.

15. Nothing in this Act or in any rule made ² [by the Local Government ^{Saving.} under section 11] relating to—

- (a) the registration of motor vehicles,
- (b) requirements as to construction, identification or equipment of such vehicles, or
- (c) the licensing or qualifications of drivers of such vehicles,

shall apply in the case of any motor vehicle such as is referred to in clause (ii) of sub-section (1) of section 14, or of any person possessing, using or driving the same, provided that the requirements of any rule made under the said clause and applicable to such vehicle or person are complied with.

PART V.

MISCELLANEOUS.

16. Whoever contravenes any of the provisions of this Act or of any rule ^{Penalties.} made thereunder shall, if no other penalty is elsewhere provided in this Act for such contravention, be punishable with fine which may extend to one hundred rupees, and, in the event of such person having been previously convicted of an offence under this Act or any rule made thereunder, with fine which may extend to two hundred rupees.

¹ For rules made under s. 14 for British India and for Native States, see List of Gen. R. and O.

² These words and figures were substituted for the word "thereunder" by s. 2 and Schedule of the Amending Act, 1916 (XIII of 1916), *infra*.

Cognizance
of offences.

17. No Court inferior to that of a Presidency Magistrate or a Magistrate of the second class shall try any offence punishable under this Act or any rule made thereunder.

Cancellation
and suspension
of
licence and
disqualifica-
tion for
obtaining
licence.

18. (1) A Local Government may, in its discretion,—

(i) cancel or suspend any licence granted under this Act, and

(ii) declare any person disqualified for obtaining a licence under this Act either permanently or for such period as it thinks fit.

(2) Any Court by which any person is convicted of an offence against the provisions of this Act or any rule made thereunder or of any offence in connection with the driving of a motor vehicle shall, if such person holds a licence under the Act, cause particulars of the conviction to be endorsed thereon and may, in respect of such person and of his licence, if any, exercise the like powers as are conferred by sub-section (1) on the Local Government :

Provided that no order made by a Court under this sub-section shall affect any person or licence for a period exceeding one year from the date of such conviction.

(3) Any Court before which the holder of a licence under this Act is accused of any offence mentioned in sub-section (2) may suspend such licence until the termination of the proceedings before it.

(4) A copy of every order of cancellation, suspension or disqualification made under this section in respect of a licence or the holder of a licence shall be endorsed on the licence, and a copy of every endorsement, in accordance with the provisions of this section, shall be sent to the authority by which such licence has been granted.

(5) Every holder of a licence shall, when called upon to do so, produce his licence before any authority acting under this section.

(6) A person whose licence has been cancelled or suspended in accordance with the provisions of this section, shall, during the period for which such order of cancellation has effect, or during the period of suspension, as the case may be, be disqualified for obtaining a licence.

(7) No person whose licence has been endorsed or who has been disqualified for obtaining a licence shall apply for, or obtain, a licence without giving particulars of such endorsement or disqualification.

Repeals.

19. The enactments mentioned in the Schedule are repealed to the extent specified in the fourth column thereof :

Provided that any appointment, notification, order, rule, form or license made or issued under any of the said Acts, shall, so far as it is

not inconsistent with the provisions of this Act, continue in force and be deemed to have been issued under the provisions of this Act, unless and until it is superseded by any appointment, notification, order, rule, form or licence made or issued under this Act.

SCHEDULE.

ENACTMENTS REPEALED.

(See section 19.)

| Year | No. | Short title. | Extent of repeal. |
|---|-----|--|-------------------|
| <i>I.—Act of the Governor General in Council.</i> | | | |
| 1912 | XII | The Motor Vehicles International Circulation Act, 1912 | The whole. |
| <i>II.—Madras Act.</i> | | | |
| 1907 | I | The Madras Motor Vehicles Act, 1907 | The whole. |
| <i>III.—Bombay Act.</i> | | | |
| 1904 | II | The Bombay Motor Vehicles Act, 1904 | The whole. |
| <i>IV.—Bengal Act.</i> | | | |
| 1903 | III | The Bengal Motor Car and Cycle Act, 1903 | The whole. |
| <i>V.—United Provinces Act.</i> | | | |
| 1911 | II | The United Provinces Motor Vehicles Act, 1911 | The whole. |
| <i>VI.—Punjab Act.</i> | | | |
| 1907 | II | The Punjab Motor Vehicles Act, 1907 | The whole. |
| <i>VII.—Burma Act.</i> | | | |
| 1906 | II | The Burma Motor Vehicles Act, 1906 | The whole. |

ACT No. IX OF 1914.¹

[28th February, 1914.]

An Act to consolidate and amend the law relating to the grant of loans to Local Authorities.

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to the borrowing powers of local authorities ; It is hereby enacted as follows :—

Short title and extent. 1. (1) This Act may be called the Local Authorities Loans Act, 1914.
(2) It extends to the whole of British India, including the Sonthal Parganas.

Definitions. 2. In this Act, “ local authority ” means any person legally entitled to the control or management of any local or municipal fund, or legally entitled to impose any cess, rate, duty or tax within any local area ;

“ funds ”, used with reference to any local authority, includes any local or municipal fund to the control or management of which such authority is legally entitled, and any cess, rate, duty or tax which such authority is legally entitled to impose, and any property vested in such authority ;

“ prescribed ” means prescribed by rules made under this Act ; and

“ work ” includes a survey, whether incidental to any other work or not.

Borrowing powers of local authorities. 3. (1) A local authority may, subject to the prescribed conditions, borrow on the security of its funds or any portion thereof for any of the following purposes, namely :—

- (i) the carrying out of any works which it is legally authorized to carry out,
- (ii) the giving of relief and the establishment and maintenance of relief works in times of famine or scarcity,
- (iii) the prevention of the outbreak or spread of any dangerous epidemic disease,
- (iv) any measures which may be connected with or ancillary to any purposes specified in clauses (ii) and (iii),
- (v) the repayment of money previously borrowed in accordance with law :

Provided that nothing in clause (v) shall be deemed to empower a local authority to fix a period for the repayment of any money borrowed there-

¹ For Statement of Objects and Reasons, see Gazette of India, 1914, Pt. V, p. 5 ; for Report of Select Committee, see *ibid.*, 1914, Pt. V, p. 17 ; and for Proceedings in Council, see *ibid.*, 1914, Pt. VI, pp. 64, 159, 189 and 496.

The Act was extended to British Baluchistan under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), see Gazette of India, 1915, Pt. II, p. 424.

under which, when the period fixed for the repayment of the money previously borrowed is taken into account, will exceed [the maximum period fixed for the repayment of a loan by or under any enactment for the time being in force.

(2) Nothing in this section shall be deemed to authorize any local authority—

(a) to borrow or spend money for any purpose for which, under the law for the time being in force, it is not authorized to apply its funds, or

(b) to borrow money by means of the issue of bills or promissory notes payable within any period not exceeding twelve months.

4. (1) The Governor General in Council may make ¹rules consistent with this Act as to—

Power to
Governor
General in
Council to
make rules.

- (i) the nature of the funds on the security of which money may be borrowed ;
- (ii) the works for which money may be borrowed ;
- (iii) the manner of making applications for permission to borrow money ;
- (iv) the inquiries to be made in relation to such loans, and the manner of conducting such inquiries ;
- (v) the cases and the forms in which particulars of applications and proceedings, and orders thereon, shall be published ;
- (vi) the cases in which the Local Government may make loans without the previous sanction of the Governor General in Council, and the cases in which such previous sanction must be obtained ;
- (vii) the cases in which the Local Government may authorize local authorities to take loans from persons other than the Local Government, and the cases in which the previous sanction of the Governor General in Council must be obtained to such loans ;
- (viii) the manner of recording and enforcing the conditions on which money is to be borrowed ;
- (ix) the manner and time of making or raising loans ;
- (x) the inspection of any works carried out by means of loans ;
- (xi) the instalments, if any, by which loans shall be repaid, the interest to be charged on loans, and the manner and time of repaying loans and of paying the interest thereon ;
- (xii) the sum to be charged against the funds which are to form the security for the loan, as costs in effecting the loan ;

¹ For rules under s. 4, see List of Gen. R. and O.

- (xiii) the attachment of such funds, and the manner of disposing of or collecting them ;
- (xiv) the accounts to be kept in respect of loans ;
- (xv) the utilization of unexpended balances of loans either in the reduction in any way of the debt of the local authority, or in carrying out any works which that authority is legally authorized to carry out ; and the sanction necessary to such utilization ;

and as to all other matters incidental to carrying this Act into effect.

(2) The Governor General in Council may, subject to such conditions and restrictions as he thinks fit, delegate to a Local Government, or to Local Governments generally, all or any of his powers to make rules under sub-section (1).

(3) All rules made under this Act shall be published in the Gazette of India, if made by the Governor General in Council, or, if made by the Local Government in the exercise of a delegated power, in the local official Gazette, and on such publication, shall have effect as if enacted in this Act.

Remedy by
attachment if
loan not
repaid.

5. If any money borrowed in accordance with the provisions of this Act or any interest or costs due in respect thereof, is or are not repaid according to the conditions of the loan, the Local Government, if itself the lender, may, and, if the Local Government is not the lender, shall, on the application of the lender, attach the funds on the security of which the loan was made. After such attachment, no person, except an officer appointed in his behalf by the Local Government, shall in any way deal with the attached funds ; but such officer may do all acts in respect thereof which the borrowers might have done if such attachment had not taken place, and may apply the proceeds in satisfaction of the loan and of all interests and costs due in respect thereof and of all expenses caused by the attachment and subsequent proceedings :

Attachment
not to defeat
prior charges
legally made.

Provided that no such attachment shall defeat or prejudice any debt for which the funds attached were previously pledged in accordance with law ; but all such prior charges shall be paid out of the proceeds of the funds before any part of the proceeds is applied to the satisfaction of the liability in respect of which such attachment is made.

Issue of short
term bills.

6. (1) Subject to the provisions of section 26 of the ¹ Indian Paper Currency Act, 1910, the local authorities mentioned in Schedule I and any other local authority to which the Governor General in Council may, by notification in the Gazette of India, extend the provisions of this section, may, with the previous sanction of the Governor General in Council, borrow money by means of the issue of bills or promissory notes payable within any period, not

¹ Genl. Acts, Vol. VII.

exceeding twelve months, for any purpose for which such local authority may lawfully borrow money under any law for the time being in force :

Provided that the amount of the bills or promissory notes which may be so issued, shall not exceed, when the amount of the other moneys for the time being borrowed by such local authority is taken into account, the total amount which such local authority is empowered by law to borrow.

(2) The Governor General in Council may, by general or special order, regulate the conditions on which money may be borrowed or repaid under this section.

7. Except as provided by or under this Act, no local authority shall, for any purpose, borrow money upon, or otherwise charge its funds ; and any contract otherwise made for that purpose after the passing of this Act shall be void :

Provided that nothing herein contained shall be deemed—

(a) to preclude any local authority from exercising the borrowing powers conferred on it by any special enactment now or hereafter in force ; or

(b) to affect the power conferred on any local authority by any such enactment to charge its funds, by guaranteeing the payment of interest on money to be applied to any purpose to which the funds of the local authority can legally be applied.

8. The Secretary of State in Council shall be entitled to the remedy mentioned in section 5 for the recovery of any money lent by him to any local authority before the 5th day of September, 1871, and the interest due on such money.

Application of Act to loans existing previous to the 5th of September, 1871.

9. The enactments mentioned in Schedule II are repealed to the extent specified in the fourth column thereof :

Provided that all applications, declarations, authorisations, attachments, loans and rules made under any of these enactments shall be deemed to have been made under this Act.

SCHEDULE I.

(See section 6.)

The Corporation of Calcutta.

The Commissioners for the Port of Calcutta.

The Commissioners for the Port of Chittagong.

The Municipal Corporation of the City of Bombay.

The Trustees of the Port of Bombay.

The Corporation of Madras.

The Trustees for the Port of Madras.
The Municipal Committee of Rangoon.
The Commissioners for the Port of Rangoon.
The Municipality of Karachi.
The Trustees of the Port of Karachi.
The Trustees for the Improvement of the City of Bombay.
The Trustees for the Improvement of the City of Calcutta.

SCHEDULE II.
ENACTMENTS REPEALED.
(See section 9.)

| Year. | No. | Short title. | Extent of repeal. |
|-------|------|--|-----------------------------|
| 1 | 2 | 3 | 4 |
| 1879 | XI | The Local Authorities Loan Act, 1879 | So much as is not repealed |
| 1885 | XV | The Local Authorities Loan Act (1879) Amendment Act, 1885. | The whole. |
| 1897 | XII | The Local Authorities (Emergency) Loans Act, 1897. | So much as is not repealed. |
| 1904 | III | The Local Authorities Loan Act, 1904 | So much as is not repealed. |
| 1905 | I | The Local Authorities Loan (Amendment) Act, 1905. | The whole. |
| 1907 | V | The Local Authorities Loan (Amendment) Act, 1907. | The whole. |
| 1908 | VIII | The Local Authorities Loan (Amendment) Act, 1908. | The whole. |
| 1912 | | The Local Authorities (Emergency) Loans (Amendment) Act, 1912. | The whole. |

ACT No. X OF 1914.¹

[17th March, 1914.]

An Act to amend certain enactments and to repeal certain other enactments.

WHEREAS it is expedient that certain formal amendments should be made in the enactments specified in the First Schedule;

¹ For Statement of Objects and Reasons, see Gazette of India, 1913, Pt. V, p. 147; for Report of Select Committee, see *ibid*, 1914, Pt V, p 65; and for Proceedings in Council, see *ibid*, 1913, Pt. VI, pp. 513, 555, and *ibid*, 1914, Pt. VI, pp. 141, 368 and 720.

and whereas it is also expedient that certain enactments specified in the Second Schedule which are spent, or have ceased to be in force otherwise than by express specific repeal, or have by lapse of time or otherwise become unnecessary, should be expressly and specifically repealed ;

It is hereby enacted as follows —

1. This Act may be called the Repealing and Amending Act, 1914. Short title.
2. The enactments specified in the First Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof. Amendment of certain enactments.
3. The enactments specified in the Second Schedule are hereby repealed to the extent mentioned in the fourth column thereof. Repeal of certain enactments.
4. The repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to ; Savings.

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued, or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing ;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognized or derived by, in or from any enactment hereby repealed ;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE.

AMENDMENTS.

(See section 2.)

| 1 | 2 | 3 | 4 |
|-------|--------|--|---|
| Year. | No. | Short title. | Amendments. |
| 1850 | XXXVII | The Public Servants (In- guines) Act, 1850. | In section 8, for the words and figures " Act XXX of 1841 " the words and figures " the Code of Criminal Procedure, 1898, " shall be substituted. |

THE FIRST SCHEDULE—*contd.*

AMENDMENTS.

(See section 2.)

| 1 | 2 | 3 | 4 |
|-------|-------|--|---|
| Year. | No. | Short title. | Amendments. |
| 1867 | XXV | The Press and Registration of Books Act, 1867. | In section 19, for the words "Secretary to the Government of India in the Home Department," the words "Government of India" shall be substituted. |
| " | XXXII | The Chief Commissioners' Powers Act. | In the preamble, for the words "Chief Commissioners" the words "Chief Commissioner" shall be substituted. |
| 1872 | I | The Indian Evidence Act, 1872. | In section 37, for the words "the Governors in Council of Madras or Bombay, or of the Lieutenant-Governor in Council of Bengal" the following shall be substituted, namely: "any other legislative authority in British India constituted for the time being under the Indian Councils Act, 1861, the Indian Councils Acts, 1861 and 1892, or the Indian Councils Acts, 1861 to 1909. |
| | XV | The Indian Christian Marriage Act, 1872. | In section 86, for the words "and Bombay" the words "Bombay and Fort William in Bengal" shall be substituted. |
| 1875 | XIII | The Probate and Administration Act, 1875. | In the title, for the words "Probates and Letters of Administration" the words "Court Fees" shall be substituted. |
| 1882 | V | The Indian Easements Act, 1882. | For section 3 the following section shall be substituted, namely:— "3. All references in any Act or Regulation to sections 26 and 27 of the Indian Limitation Act, 1877, or to sections 27 and 28 of Act No. IX of 1871 shall, in the territories to which this Act extends, be read as made to sections 15 and 16 of this Act." |

THE FIRST SCHEDULE—*contd.*

AMENDMENTS.

(See section 2.)

| 1 | 2 | 3 | 4 |
|-------|------|--|---|
| Year. | No. | Short title. | Amendments. |
| 1882 | XV | The Presidency Small Cause Courts Act, 1882. | In section 19, clause (5), for the words "or Bombay" the words "Bombay or Fort William in Bengal" shall be substituted. In section 87, for the figures and words "83 or section 85" the words and figures "480 or section 482 of the Code of Criminal Procedure, 1898," shall be substituted In section 88, for the words and figures "Presidency Magistrates Act, 1877," the words and figures "Code of Criminal Procedure, 1898," shall be substituted. |
| 1886 | X | The Indian Criminal Law Amendment Act, 1886. | In the title and preamble, for the words "Code of Criminal Procedure, 1882, and certain other Acts," the words "Indian Penal Code" shall be substituted. |
| " | XIII | The Indian Securities Act, 1886. | In section 14, after the words "from time to time," the words "after previous publication" shall be inserted. |
| 1887 | IX | The Provincial Small Cause Courts Act, 1887. | In the Second Schedule, clause (1), for the words "or Bombay" the words "Bombay or Fort William in Bengal" shall be substituted. |
| 1894 | I | The Land Acquisition Act, 1894. | In section 2, sub-sections (2) and (3) for the words "said Land Acquisition Act," the words and figures "Land Acquisition Act, 1870," shall be substituted. |
| " | VIII | The Indian Tariff Act, 1894 | In section 5, sub-section (2), for the words "and the Governor of Bombay in Council" the words "the Governor of Bombay in Council and the Governor in Council of Fort William in Bengal" shall be substituted. |
| " | IX | The Prisons Act, 1894 | In section 47, clause (4), for the word "and" the word "or" shall be substituted. |

THE FIRST SCHEDULE—*contd.*

AMENDMENTS.

(See section 2.)

| 1 | 2 | 3 | 4 |
|-------|-----|--------------------------------|--|
| Year. | No. | Short title. | Amendments. |
| 1897 | X | The General Clauses Act, 1897. | <p>In section 3, between clauses (3) and (4), the following shall be inserted, namely.—</p> <p>“(3a) ‘ Assam Act ’ shall mean an Act made by the Chief Commissioner of Assam in Council under the Indian Councils Acts, 1861 to 1909 ”</p> <p>For clause (5) the following shall be substituted, namely.—</p> <p>“(5) ‘ Bengal Act ’ shall mean, in the case of Acts passed prior to the 1st April, 1912, an Act made by the Lieutenant-Governor of Bengal in Council under the Indian Councils Act, 1861, or the Indian Councils Acts, 1861 and 1892, or the Indian Councils Acts, 1861 to 1909, and in the case of Acts passed after that date, an Act made by the Governor of the Presidency of Fort William in Bengal in Council under the Indian Councils Acts, 1861 to 1909 ”</p> <p>After clause (5) the following shall be inserted, namely:—</p> <p>“(5a) ‘ Bihar and Orissa Act ’ shall mean an Act made by the Lieutenant-Governor of Bihar and Orissa in Council under the Indian Councils Acts, 1861 to 1909 ”</p> <p>To each of clauses (6) and (8a) the following shall be added, namely:—</p> <p>“ or the Indian Councils Acts, 1861 to 1909.”</p> |

THE FIRST SCHEDULE—*contd.*

AMENDMENTS.

(See section 2.)

| 1 | 2 | 3 | 4 |
|-------|-----|--|--|
| Year. | No. | Short title. | Amendments. |
| 1897 | X | The General Clauses Act, 1897— <i>concl'd.</i> | After clause (16), the following shall be inserted, namely :— “(16a) ‘ Eastern Bengal and Assam Act ’ shall mean an Act, made by the Lieutenant-Governor of Eastern Bengal and Assam in Council under the Indian Councils Acts, 1861 and 1892, or the Indian Councils Acts, 1861 to 1909.” To each of clauses (30), (44a) and (55a) the following shall be added, namely :— “ or the Indian Councils Acts, 1861 to 1909.” |
| „ | XIV | The Indian Short Titles Act, 1897. | In the Schedule, for the entry in column 4 against Act XIII of 1875 the following shall be substituted, namely :— “ The Court Fees (Amendment) Act, 1875.” |
| 1898 | V | The Code of Criminal Procedure, 1898. | In section 484, after the figures “ 480 ” the words and figures “ or section 482 ” shall be inserted, and after the words “ to punishment ” the words “ or forwarded him to a Magistrate for trial ” shall be inserted. |
| 1899 | II | The Indian Stamp Act, 1899 | In Schedule I, article 24, <i>Exemption</i> (b), after the word “ marriages ” the word “ divorces ” shall be inserted. |
| 1903 | I | The Repealing and Amending Act, 1903. | In the title, after the word “ enactments ” where it first occurs, the word “ and ” shall be inserted. |
| „ | XV | The Indian Extradition Act, 1903. | In the First Schedule, for the figures “ 446 ” the figures “ 444 ” shall be substituted. |

THE FIRST SCHEDULE—*contd.*

AMENDMENTS.

(See Section 2.)

| 1 | 2 | 3 | 4 |
|-------|-------|---|--|
| Year. | No. | Short title. | Amendments. |
| 1904 | VIII | The Indian Universities Act, 1904. | In section 24, sub-section (6), for the figure "3" the figure "5" shall be substituted. |
| 1907 | III | The Provincial Insolvency Act, 1907. | In section 22, in the proviso, for the word "order" the word "act" shall be substituted. In section 44, sub-section (3) between the word "of" and "following" the word "the" shall be inserted. |
| 1908 | IV | The Coroners (Amendment) Act, 1908. | In section 2, before the words "the said Act" the words and figures "the Coroners Act, 1871, hereinafter referred to as" shall be inserted. |
| " | V | The Code of Civil Procedure, 1908. | In Schedule I : in Appendix E, Form No. 7, for the bracketed reference "(O. 21, r 22)," the following shall be substituted, namely :— " (O 21, r 16) " ; In Appendix F, the last two Forms shall be renumbered 9 and 10 instead of 6 and 7 respectively. |
| 1910 | IX | The Indian Electricity Act, 1910. | In the Schedule, in clause VII (1), for the words "a notice" the words "one month's notice" shall be substituted. |
| " | XV | The Cantonments Act, 1910. | In section 3, sub-section (1), after the word "place" the words "or places" and after the word "quartered" the words "or which, being in the vicinity of such place or places, are required for the service of the troops" shall be inserted. |
| 1911 | XVII | The Indian Airships Act, 1911. | In section 12, clause (b), for the word "to" the word "by" shall be substituted. |
| " | XVIII | The Calcutta Improvement (Appeals) Act, 1911. | In section 3, sub-section (2), after the words "lie on" the words "one or more of" shall be inserted. In section 5, for the words "appeal as if it was" the words "appeal under this Act, as if it were" shall be substituted. |

THE FIRST SCHEDULE—*concl'd.*

AMENDMENTS.

(See section 2)

| 1 | 2 | 3 | 4 |
|-------|-----|--|---|
| Year. | No. | Short title. | Amendments. |
| 1913 | II | The Official Trustees Act, 1913 | In section 30, sub-section (2), the following clause shall be inserted after clause (e) — “(ee) The disposal, by destruction or otherwise, of such records, books and papers belonging to or being in the custody of the Official Trustee as the Government may consider useless or unworthy of being permanently preserved” |
| „ | III | The Administrator-General's Act, 1913. | In section 50, sub-section (2), the following clause shall be inserted after clause (f) :— “(ff) The disposal by destruction or otherwise, of such records, books and papers belonging to or being in the custody of the Administrator-General as the Government may consider useless or unworthy of being permanently preserved.” |
| „ | VII | The Indian Companies Act, 1913. | In the First Schedule, in Table A, paragraph 91, for the word “found” the word “formed” shall be substituted. |

THE SECOND SCHEDULE.

REPEALS.

(See section 3.)

| 1 | 2 | 3 | 4 |
|-------|-----|--|---|
| Year. | No. | Subject or short title. | Extent of repeal. |
| 1834 | II | The Secretaries to Government Act, 1834. | The words “and to the Government of Fort William in Bengal.” |
| 1838 | XXV | The Wills Act, 1838 . . . | In section 1, the words from “and every word importing the singular” to “a male.” |

THE SECOND SCHEDULE—*contd.*

REPEALS.

(See section 3.)

| 1 | 2 | 3 | 4 |
|-------|------|---|---|
| Year. | No. | Subject or short title. | Extent of repeal. |
| 1839 | XXIX | The Dower Act, 1839 | In section 1, the words from "and every word importing" to "or thing." |
| " | XXX | The Inheritance Act, 1839 | In section 1, the words from "and every word importing the singular" to "a male." |
| 1841 | X | The Indian Registration of Ships Act, 1841. | In section 15, the words "upon conviction" occurring between the words "liable" and "on." In section 23, the words "on conviction" where they occur for the second time. |
| 1852 | XXX | The Indian Naturalization Act, 1852. | In section 12, the words from "and words denoting" to "feminine." |
| 1855 | XIII | The Indian Fatal Accidents Act, 1855. | In section 1, the words "And it is enacted further that." In section 4, the words from "words denoting the singular" to "feminine gender, and" |
| " | XXIV | The Penal Servitude Act, 1855. | Section 8 so far as it has not been repealed by Act XII of 1867. In section 15, the words from "words in the singular" to "construction." |
| 1859 | I | The Indian Merchant Shipping Act, 1859. | In section 118, the words from "the words importing the singular" to "females" |
| 1861 | V | The Police Act, 1861 | In section 1, the words from "words importing the singular" to "females" |
| " | XVI | The Stage Carriages Act, 1861. | In section 21, the words from "words importing the singular" to "feminine." The word "Chief" wherever it occurs before the words "Commissioner of Police." |

THE SECOND SCHEDULE—*contd.*

REPEALS.

(See section 3.)

| 1 | 2 | 3 | 4 |
|-------|-------|--|--|
| Year. | No. | Subject or short title. | Extent of repeal. |
| 1863 | XX | The Religious Endowments Act, 1863. | In section 2, the words from "words importing the singular" to "females." |
| " | XXIII | The Waste Lands (Claims) Act, 1863. | Section 24. |
| 1864 | III | The Foreigners Act, 1864 . | In section 1, the words from "words importing the singular" to "females." Section 24. |
| 1865 | III | The Carriers Act, 1865 . | In section 2, the words from "words in the singular" to "include the singular." |
| " | X | The Indian Succession Act, 1865. | In section 3, the words from "words importing the singular" to "females." |
| " | XV | The Parsi Marriage and Divorce Act, 1865. | In section 2, the words from "words in the singular" to "include the singular." |
| 1866 | XXI | The Native Converts' Marriage Dissolution Act, 1866. | In section 3, the words from "and unless" to "include the singular." |
| " | XXVII | The Indian Trustees Act, 1866. | In section 2, the words from "words importing the singular" to "female." |
| 1867 | XXII | The Sais Act, 1867 . | In section 2, the words from "words in the singular" to " <i>vice versa</i> ." |
| " | XXV | The Press and Registration of Books Act, 1867. | In section 1, the words from "words in the singular" to "females." |
| " | XXXII | The Chief Commissioners' Powers Act. | In the preamble, the words "any of" and "Oudh" and in section 1, the words "Oudh" and "as the case may be." |
| 1871 | I | The Cattle Trespass Act, 1871. | In section 1, the sub-section (3). In section 26, the words from "the Local Government may at any time" to "under this section." In section 31, the words from "and may" to "this section" |

THE SECOND SCHEDULE—*contd.*

REPEALS.

(See section 3.)

| 1 | 2 | 3 | 4 |
|-------|-------|---|---|
| Year. | No. | Subject or short title. | Extent of repeal. |
| 1871 | XXIII | The Pensions Act, 1871 .. | In section 1, the words from "And it shall" to "thereof" |
| 1872 | I | The Indian Evidence Act, 1872. | In section 37, the words from "This section applies" to "Burma" |
| " | IX | The Indian Contract Act, 1872. | In section 1, the words from "The enactments" to "thereof; but." |
| | | " | The Schedule. |
| 1874 | IX | The European Vagrancy Act, 1874 | In section 26, the words from "All fines imposed" to "Courts." |
| 1875 | XIII | The Probate and Administration Act, 1875. | In the preamble, the words from "Whereas," where it occurs for the first time, to the word "and," where it occurs for the second time; and the word "also" occurring between the words "it is" and "expedient." |
| 1876 | IX | The Native Coinage Act, 1876. | In section 1, the words "and it shall come into force at once." |
| " | XIII | The Indian Merchant Seamen's Act, 1876 | In section 1, the words "and it shall come into force at once." |
| " | XIX | The Dramatic Performances Act, 1876. | In section 1, the words "and it shall come into force at once." |
| 1878 | VI | The Indian Treasure-trove Act, 1878. | In section 1, the words "and it shall come into force at once." |
| " | VII | The Indian Forest Act, 1878. | In section 1, the words from "on and from" to "hereunder." |
| " | | | The Schedule. |
| " | VIII | The Sea Customs Act, 1878. | Section 205. |
| 1* | * | * * * | * * * |
| 1880 | I | The Religious Societies Act, 1880. | In section 1, the words "shall come into force at once, and." |

* Act III of 1879 having been repealed by Act V of 1917, the entry relating to the former Act is omitted.

THE SECOND SCHEDULE—*contd.*

REPEALS.

(See section 3.)

| 1 | 2 | 3 | 4 |
|-------|------|--|---|
| Year. | No. | Subject or short title. | Extent of repeal. |
| 1880 | XII | The Kazis Act, 1880 | In section 1, the words "and it shall come into force at once." |
| 1881 | XI | The Municipal Taxation Act, 1881. | In section 1, the words "and shall come into force at once." |
| " | XVI | The Obstructions in Fairways Act, 1881. | In section 1, the words "and it shall come into force at once." |
| 1882 | XII | The Indian Salt Act, 1882 | In section 1, the words "and it shall come into force at once." |
| " | XV | The Presidency Small Cause Courts Act, 1882. | In section 19, clause (r), the words "for the recovery of a wife." Sections 83, 84, 85 and 86. In section 88, the words and figures "section 83 or." |
| " | XIX | The Punjab University Act, 1882. | In section 1, the words "and it shall come into force at once." |
| 1884 | IV | The Indian Explosives Act, 1884. | In section 6, sub-section (1), the word "and" after clause (a); and clause (b). |
| " | VII | The Indian Steamships Act, 1884. | Section 9, sub-section (2). |
| " | IX | The Legal Practitioners' Act, 1884. | In the title the words "and the Indian Stamp Act, 1879." In the preamble, the second clause. In section 1, the word "and" after sub-section (1); and sub-section (2). Section 3. |
| 1886 | X | The Indian Criminal Law Amendment Act, 1886. | The heading : "Indian Penal Code." Section 22. |
| " | XIII | The Indian Securities Act, 1886. | In section 15, sub-sections (1), (2), (3) and of sub-section (4) the words from "and the" to the end. |

THE SECOND SCHEDULE—*contd.*

REPEALS.

(See section 3.)

| 1 | 2 | 3 | 4 |
|-------|-------|---|---|
| Year. | No. | Subject or short title. | Extent of repeal. |
| 1887 | II | The Sea Customs Act (1878) Amendment Act, 1887. | The heading: "Sea Customs Act, 1878." |
| " | IX | The Provincial Small Cause Courts Act, 1887. | In the Second Schedule, in item (37), the words "for the recovery of a wife." |
| " | XVIII | The Allahabad University Act, 1887. | In section 1, the word "and" after sub-section (1); and sub-section (2). |
| 1888 | III | The Police Act, 1888 . . . | In section 1, the word "and" after sub-section (2); and sub-section (3). |
| " | VI | The Debtors Act, 1888 . . . | So much as is unrepealed. |
| 1889 | I | The Metal Tokens Act, 1889. | In section 1, the word "and" after sub-section (2); and sub-section (3). |
| " | VI | The Probate and Administration Act, 1889. | In the title and preamble, the words "and the Indian Stamp Act, 1879." In section 1, the word "and" after sub-section (2); and sub-section (3). Section 8. |
| 1890 | I | The Revenue Recovery Act, 1890. | In section 1, the word "and" after sub-section (2); and sub-section (3). |
| " | V | The Forest Act, 1890 . . . | In the title and preamble the words "and the Burma Forest Act, 1881." In section 1, the word "and" after sub-section (1); and sub-section (2). The headings: " <i>Indian Forest Act, 1878,</i> " and " <i>Burma Forest Act, 1881.</i> " |
| " | XIII | The Excise (Malt-Liquors) Act, 1890. | In the title and in the preamble, the words and figures "to amend the Excise Act, 1881, and the Bengal Excise Act, 1878, and." In section 1, the word "and" after sub-section (1); and sub-section (2). |
| " | XIX | The Indian Salt Act (1882) Amendment Act, 1890. | So much as is unrepealed. |

THE SECOND SCHEDULE—*contd.*

REPEALS.

(See section 3.)

| 1 | 2 | 3 | 4 |
|-------|-------|---|--|
| Year. | No. | Subject or short title. | Extent of repeal. |
| 1891 | III | The Indian Evidence Act (1872) Amendment Act, 1891. | In the title and preamble, the words "and the Code of Criminal Procedure, 1882"; the heading " <i>Indian Evidence Act, 1872</i> "; and the heading " <i>Code of Criminal Procedure, 1882</i> ," after section 8. |
| " | IX | The Indian Merchandise Marks and Sea-Customs Acts Amendment Act, 1891 | Sections 1 and 2. |
| " | XII | The Amending Act, 1891 . | In section 1, the word "and" after sub-section (2), and sub-section (3). Sub-section (3) of section 2 and of Part I of the Second Schedule, so much as relates to Act XXI of 1879 and Act XV of 1883. |
| 1* | * | * * * | * * * |
| " | XVI | The Colonial Courts of Admiralty (India) Act, 1891. | Section 5 and the Schedule. |
| " | XVII | The Deck and Load Lines Act, 1891. | Section 5. |
| " | XVIII | The Bankers' Books Evidence Act, 1891. | In section 1, the word "and" after sub-section (2); and sub-section (3). |
| 1892 | II | The Marriage Validation Act, 1892. | Section 1. |
| " | VI | An Act to amend the Indian Limitation Act, 1877, and the Code of Civil Procedure. | So much as is unrepealed. |
| " | VIII | The Lansdowne Bridge Act, 1892. | In section 1, the word "and" after sub-section (2); and sub-section (3). |
| " | X | The Government Management of Private Estates Act, 1892. | In section 1, the word "and" after sub-section (2); and sub-section (3). Section 9. |

*Act XIII of 1891 having been repealed by Act I of 1917, the entry relating to the former Act is omitted.

THE SECOND SCHEDULE—*contd.*

REPEALS.

(See section 3.)

| 1 | 2 | 3 | 4 |
|-------|------|---|--|
| Year. | No. | Subject or short title. | Extent of repeal. |
| 1893 | I | The Bankers' Books Evidence Act, 1893. | In section 1, the word "and" after sub-section (1); and sub-section (2). |
| " | IV | The Partition Act, 1893. | In section 1, the word "and" after sub-section (2); and sub-section (3). |
| 1894 | I | The Land Acquisition Act, 1894. | In section 2, sub-section (1), and of sub-section (2), the word "But." |
| " | III | The Indian Criminal Law Amendment Act, 1894. | In the title and preamble, the words and figures "the Code of Criminal Procedure, 1882, and." The heading " <i>Indian Penal Code.</i> " |
| " | VIII | The Indian Tariff Act, 1894. | In section 1, the word "and" after sub-section (2); and sub-section (3) |
| " | XV | The Engineers' Certificates Validation Act, 1894. | In section 1, the word "and" after sub-section (1); and sub-section (2). |
| 1895 | I | The Presidency Small Cause Courts Act, 1895. | In section 3, sub-section (2). Section 12. |
| " | III | The Indian Criminal Law Amendment Act, 1895. | In the title and preamble, the words and figures "Act VI of 1864 and the Indian Post Office Act, 1866." The heading " <i>Indian Penal Code.</i> " |
| " | X | The Indian Railway Companies Act, 1895. | In section 1, the word "and" after sub-section (2), and sub-section (3). |
| " | XV | The Crown Grants Act, 1895. | In section 1, the word "and" after sub-section (2), and sub-section (3). |
| 1896 | II | The Cotton Duties Act, 1896. | In section 1, the word "and" after sub-section (2), and sub-section (3). In section 8, sub-section (4), the words from "and the first of such returns" to "commencement of this Act." Part II]. |
| | VIII | The Inland Bonded Warehouses Act, 1896. | In section 1, the word "and" after sub-section (2); and sub-section (3). Section 4, sub-section (4). |

THE SECOND SCHEDULE—*contd.*

REPEALS.

(See section 3.)

| 1 | 2 | 3 | 4 |
|-------|------|---|---|
| Year. | No. | Subject or short title. | Extent of repeal. |
| 1896 | IX | The Indian Railways Act (1890) Amendment Act, 1896. | Section 5. |
| " | X | The Indian Volunteers Act Amendment Act, 1896. | In section 1, the word "and" after sub-section (2); and sub-section (3). |
| " | XII | The Excise Act, 1896 | In section 1, sub-section (2), the words "the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh"; the word "and" after sub-section (2); and sub-section (3). In section 3, sub-section (1), clause (a) the words "in the territories administered by the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh,—the Board of Revenue." |
| 1897 | III | The Epidemic Diseases Act, 1897. | In section 1, the word "and" after sub-section (2); and sub-section (3). |
| " | IV | The Indian Fisheries Act, 1897. | In section 1, the word "and" after sub-section (2); and sub-section (3). |
| " | V | The Amending Act, 1897 | In section 1, the word "and" after sub-section (1); and sub-section (2). In the Second Schedule, Part II, the entry relating to Bengal Act, VIII of 1862. |
| " | VI | The Negotiable Instruments Act Amendment Act, 1897. | In section 1, the word "and" after sub-section (1); and sub-section (2). |
| " | VIII | The Reformatory Schools Act, 1897. | In section 1, the word "and" after sub-section (1), and sub-section (2). |
| " | IX | The Provident Funds Act, 1897. | In section 1, the word "and" after sub-section (2); and sub-section (3). |
| " | X | The General Clauses Act, 1897. | In section 1, the word "and" after sub-section (1); and sub-section (2). |

THE SECOND SCHEDULE—*contd.*

REPEALS.

(See section 3.)

| 1 | 2 | 3 | 4 |
|-------|-----|---|---|
| Year. | No. | Subject or short title. | Extent of repeal. |
| 1897 | XIV | The Indian Short Titles Act, 1897. | <p>In section 1, the word "and" after sub-section (1); and sub-section (2).</p> <p>In the schedule, the entries relating to—</p> <p>Act X of 1875.</p> <p>Act V of 1887.</p> <p>Act I of 1888.</p> <p>Act XX of 1889</p> <p>Act XVIII of 1890.</p> <p>Act IV of 1891.</p> <p>Act V of 1891.</p> <p>Act VI of 1892.</p> <p>Act V of 1893.</p> <p>Act II of 1894.</p> <p>Act VI of 1894.</p> <p>Act X of 1894.</p> <p>Act IV of 1895.</p> <p>Act XIII of 1895.</p> <p>Act I of 1896.</p> <p>Act IV of 1896.</p> <p>Act V of 1896.</p> <p>Act XIII of 1896.</p> <p>Act XIII of 1897.</p> |
| 1898 | I | The Stage Carriages Act (1861) Amendment Act, 1898. | Section 2. |

THE SECOND SCHEDULE—*contd.*

REPEALS.

(See section 3.)

| 1 | 2 | 3 | 4 |
|-------|-----|---|---|
| Year. | No. | Subject or short title. | Extent of repeal. |
| 1898 | IV | The Indian Penal Code Amendment Act, 1898. | In section 1, the word "and" after sub-section (1); and sub-section (2). |
| " | V | The Code of Criminal Procedure, 1898. | Section 2 and the First Schedule. In section 471 (1), the words "and shall report the case for the orders of the Local Government." In section 471 (4), the word and figures "section 472." |
| " | VI | The Indian Post Office Act, 1898. | Section 76 and the Second Schedule. |
| " | IX | The Live-stock Importation Act, 1898. | In section 1, the word "and" after sub-section (2); and sub-section (3). |
| " | X | The Indian Insolvency Rules Act, 1898. | In section 1, the word "and" after sub-section (1); and sub-section (2). |
| 1899 | I | The Indian Marine Act (1887) Amendment Act, 1899. | In section 1, the word "and" after sub-section (1); and sub-section (2). |
| " | II | The Indian Stamp Act, 1899 | In section 1, sub-section (2), the words "Upper Burma." Section 79 and the Second Schedule. |
| " | III | The Presidency Small Cause Courts Act, 1899. | In section 1, the word "and" after sub-section (1), and sub-section (2). |
| " | IV | The Government Buildings Act, 1899. | In section 1, the word "and" after sub-section (2); and sub-section (3) |
| " | V | The Indian Evidence Act, 1899. | In section 1, the word "and" after sub-section (1); and sub-section (2). Section 2. Section 5. |
| 1 * | * | * * | * * * * |

¹ Act VII of 1899 having been repealed by Act I of 1917, the entry relating to the former Act is omitted.

THE SECOND SCHEDULE—*contd.*

REPEALS.

(See section 3.)

| 1 | 2 | 3 | 4 |
|-------|-------|---|---|
| Year. | No. | Subject or short title. | Extent of repeal. |
| 1899 | VIII | The Indian Petroleum Act, 1899. | In section 1, the word "and" after sub-section (1); and sub-section (2). Section 25 and the Second Schedule. |
| " | XI | The Court-fees Amendment Act, 1899. | In section 1, the word "and" after sub-section (1); and sub-section (2). Section 4. |
| " | XII | The Currency Notes Forgery Act, 1899. | In section 1, the word "and" after sub-section (1); and sub-section (2). |
| " | XIII | The Glanders and Faicy Act, 1899. | In section 1, the word "and" after sub-section (2), and sub-section (3). Section 17 and the Schedule. |
| " | XIV | The Indian Tariff Amendment Act, 1899 | In section 1, the word "and" after sub-section (1); and sub-section (2). |
| " | XVIII | The Land Improvement Loans (Amendment) Act, 1899. | In section 1, the word "and" after sub-section (1); and sub-section (2). |
| " | XIX | The Currency Conversion (Army) Act, 1899. | In section 1, the word "and" after sub-section (2); and sub-section (3). |
| " | XX | The Presidency Banks Act, 1899. | In section 1, the word "and" after sub-section (1); and sub-section (2). |
| " | XXIII | The Church of Scotland Kirk Sessions Act, 1899. | In section 1, the word "and" after sub-section (2); and sub-section (3). |
| 1900 | II | The Transfer of Property Act, 1900. | In section 1, the word "and" after sub-section (1); and sub-section (2). |
| " | III | The Prisoners Act, 1900 | In section 1, the word "and" after sub-section (2); and sub-section (3). Section 53 and the Third Schedule. |
| " | VI | The Lower Burma Courts Act, 1900. | In Schedule I, Part I, the entries relating to Act II of 1877 and Act V of 1881. |
| " | VII | Amending Act XIX of 1899 | Section 2. |

THE SECOND SCHEDULE—*contd.*

REPEALS.

(See section 3.)

| 1 | 2 | 3 | 4 |
|-------|------|--|--|
| Year. | No. | Subject or short title. | Extent of repeal. |
| 1900 | XII | The Bankers' Books Evidence Act, 1900. | In section 1, the word "and" after sub-section (1); and sub-section (2). |
| 1901 | II | The Indian Tolls (Army) Act, 1901. | Section 8 and of the Schedule so much as is unrepealed. |
| " | V | The Indian Forest (Amendment) Act, 1901. | In section 1, the word "and" after sub-section (1); and sub-section (2). |
| " | VII | The Native Christian Administration of Estates Act, 1901. | In section 1, the word "and" after sub-section (1); and sub-section (2). |
| " | VIII | The Indian Mines Act, 1901. | In section 1, the word "and" after sub-section (2); and sub-section (3). Section 33. |
| " | X | The Court-fees (Amendment) Act, 1901. | In section 1, the word "and" after sub-section (1), and sub-section (2). |
| " | XI | The Amending Act, 1901 . | In the title, the words "and repeal" and "obsolete" In section 1, the word "and" after sub-section (1); and sub-section (2). |
| 1902 | III | The Indian Steamships (Amending and Validating) Act, 1902. | Section 2. |
| " | VI | Act to abolish the Pandhari Tax. | The whole Act. |
| " | VIII | The Indian Tariff (Amendment) Act, 1902. | Section 3. |
| 1903 | I | The Repealing and Amending Act, 1903. | In the title, the words "and to repeal certain other enactments." In the preamble, the third clause In section 1, the words "Repealing and". |

THE SECOND SCHEDULE—*contd.*

REPEALS.

(See section 3.)

| 1 | 2 | 3 | 4 |
|-------|------|---|---|
| Year. | No. | Subject or short title. | Extent of repeal. |
| 1903 | I | The Repealing and Amending Act, 1903— <i>contd.</i> | Sections 4 and 5 and the Third Schedule. In the First Schedule, in Part III, the entry relating to Bengal Act VIII of 1862. |
| " | VIII | The Probate and Administration Act, 1903. | Section 4. |
| " | X | The Victoria Memorial Act, 1903. | In section 1, the word "and" after sub-section (1); and sub-section (2). |
| " | XII | The Indian Tariff (Amendment) Act, 1903. | In section 1, sub-section (2); and section 3. |
| " | XV | The Indian Extradition Act, 1903. | Section 24 and the Second Schedule. |
| 1904 | VIII | The Indian Universities Act, 1904. | Sections 12 and 29 and the Second Schedule. |
| " | XI | An Act to revive and continue section 8 (b) of the Indian Tariff Act, 1894. | Section 2. |
| " | XV | The Indian Stamp (Amendment) Act, 1904. | In section 1, sub-section (2), the words "Upper Burma." |
| " | XVI | The Sea Customs (Amendment) Act, 1904. | The whole Act. |
| 1905 | II | The Indian Universities (Validation) Act, 1905. | Ditto. |
| 1906 | III | The Indian Coinage Act, 1906. | In section 24, the first clause; and the words "Provided that" and "notwithstanding the repeal of the said Acts"; and the Schedule. |
| " | VIII | The Land Improvement and Agriculturists' Loans (Amendment) Act, 1906. | Sections 2, 3 and 5. |
| 1908 | V | The Code of Civil Procedure, 1908. | In section 60, sub-section (2), the bracketed letter (a), the word "or" after clause (a), and clause (b). |

THE SECOND SCHEDULE—*contd.*

REPEALS.

(See section 3.)

| 1 | 2 | 3 | 4 |
|-------|------|--|---|
| Year. | No. | Subject or short title. | Extent of repeal. |
| 1908 | XVII | The Indian Emigration Act, 1908. | Section 110 and the Fourth Schedule. |
| 1909 | III | The Presidency-towns Insolvency Act, 1909. | In section 127, the first sub-section and the first seven words of sub-section (2). The Third Schedule. |
| 1910 | II | The Indian Paper Currency Act, 1910. | In section 30, the words from "The enactments" to "thereof" and "Provided that" and "Provided also that"; and the Schedule. |
| " | VI | The Indian Stamp (Amendment) Act, 1910. | In section 3, clause (ii). |
| " | X | The Indian Museum Act, 1910. | Section 17. |
| " | XV | The Cantonments Act, 1910 | Section 31 and the Schedule. |
| 1911 | III | The Criminal Tribes Act, 1911. | Section 29. |
| " | XII | The Indian Factories Act, 1911. | In section 36, sub-section (2), the words from "within one month of the commencement of this Act, or" to "this Act." |

Regulation by the Governor General in Council.

| | | | |
|------|---|--|------------|
| 1900 | V | The Coorg Land and Revenue Regulation, 1900. | The whole. |
|------|---|--|------------|

Bengal Regulation.

| | | | |
|------|---|--|-------------------------|
| 1833 | X | The Bengal Land Revenue (Settlement and Deputy Collectors) Regulation, 1833. | Sections 17, 18 and 25. |
|------|---|--|-------------------------|

THE SECOND SCHEDULE—*concl'd*

REPEALS

(See section 3.)

| 1 | 2 | 3 | 4 |
|-------|-----|-------------------------|-------------------|
| Year. | No. | Subject or short title. | Extent of repeal. |

Act of the Lieutenant-Governor of Bengal in Council.

| | | | |
|------|------|-------------------------------------|----------------|
| 1862 | VIII | The Bengal Zamindari Dāk Act, 1862. | The whole Act. |
|------|------|-------------------------------------|----------------|

ACT No. XI of 1914.¹

[18th March, 1914.]

An Act to amend the Indian Companies Act, 1913.

WHEREAS it is expedient to amend the ²Indian Companies Act, 1913; It VII of 1913. is hereby enacted as follows :—

Short title. 1. This Act may be called the Indian Companies (Amendment) Act, 1914.

Insertion of new sections 83A and 83B in Indian Companies Act, 1913. 2. After section 83 of the ²Indian Companies Act, 1913 (hereinafter VII of 1913. referred to as the said Act), the following heading and sections shall be inserted, namely :—

“ *Directors.*

Directors obligatory. 83A. (1) Every company registered after the commencement of this Act shall have at least two directors.

(2) This section shall not apply to a private company.

Appointment of directors. 83B. In default of and subject to any regulations in the articles of a company other than a private company—

(i) the subscribers of the memorandum shall be deemed to be the directors of the company until the first directors shall have been appointed ;

¹ For Statement of Objects and Reasons, *see* Gazette of India, 1913, Pt. V, p. 124; for Report of Select Committee, *see ibid.*, 1914, Pt. V, p. 79; and for Proceedings in Council, *see ibid.*, 1914, Pt. VI, pp. 187, 368, 724 and 743.

² Genl. Acts, Vol. VII.

- (ii) the directors of the company shall be appointed by the members in general meeting ; and
- (iii) any casual vacancy occurring among the directors may be filled up by the directors, but the person so appointed shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last appointed a director."

3. After section 91 of the said Act the following sections shall be inserted, namely :—

Insertion of
new sections
91A, 91B,
91C and 91D
in Indian
Companies
Act, 1913.

"91A. (1) Every director who is directly or indirectly concerned or interested in any contract or arrangement entered into by or on behalf of the company shall disclose the nature of his interest at the meeting of the directors at which the contract or arrangement is determined on, if his interest then exists, or in any other case at the first meeting of the directors after the acquisition of his interest or the making of the contract or arrangement :

Disclosure of
interest by
director.

Provided that a general notice that a director is a member of any specified firm or company, and is to be regarded as interested in any subsequent transaction with such firm or company, shall as regards any such transaction be sufficient disclosure within the meaning of this sub-section, and after such general notice, it shall not be necessary to give any special notice relating to any particular transaction with such firm or company.

(2) Every director who contravenes the provisions of sub-section (1) shall be liable to a fine not exceeding one thousand rupees.

91B. (1) No director shall, as a director, vote on any contract or arrangement in which he is either directly or indirectly concerned or interested ; and if he does so vote, his vote shall not be counted :

Prohibition
of voting by
interested
director.

Provided that the directors or any of them may vote on any contract of indemnity against any loss which they or any one or more of them may suffer by reason of becoming or being sureties or surety for the company.

(2) Every director who contravenes the provisions of sub-section (1) shall be liable to a fine not exceeding one thousand rupees.

91C. (1) Where a company enters into a contract for the appointment of a manager of the company in which contract any director of the company is directly or indirectly concerned or interested, or varies any such existing contract, the company shall send an abstract of the terms of such contract or variation, as the case may be, together with a memorandum clearly indicating

Disclosure to
members in
case of
contract
appointing a
manager.

the nature of the interest of the director in such contract, or in such variation, to every member ; and the contract shall be open to the inspection of any member at the registered office of the company.

(2) If a company makes default in complying with the requirements of sub-section (1), it shall be liable to a fine not exceeding one thousand rupees ; and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

Contracts by agents of company in which company is undisclosed principal.

91D. (1) Every manager or other agent of a company other than a private company who enters into a contract for or on behalf of the company in which contract the company is an undisclosed principal shall, at the time of entering into the contract, make a memorandum in writing of the terms of the contract, and specify therein the person with whom it has been made.

(2) Every such manager or other agent shall forthwith deliver the memorandum aforesaid to the company, and such memorandum shall be filed in the office of the company and laid before the directors at the next directors' meeting.

(3) If any such manager or other agent makes default in complying with the requirements of this section—

- (a) the contract shall, at the option of the company, be void as against the company ; and
- (b) such manager or other agent shall be liable to a fine not exceeding two hundred rupees."

ACT No. XII of 1914.¹

[16th September, 1914.]

An Act further to amend the Sea Customs Act, 1878.

WHEREAS it is expedient further to amend the ²Sea Customs Act, 1878 ; VIII of 1878.
It is hereby enacted as follows :—

Short title.

1. This Act may be called the Sea Customs (Amendment) Act, 1914.

¹ For Statement of Objects and Reasons, see Gazette of India, 1914, Pt. V, p. 130 ; and for Proceedings in Council, see *ibid*, 1914, Pt. VI, pp. 998 and 1046.

² Genl. Acts, Vol. II.

2. In section 19 of the ¹Sea Customs Act, 1878 (hereinafter called the said Act), for the words "or any specified part of British India" the following shall be substituted, namely, "or any specified part thereof, either generally or from or to any specified country, region, port or place beyond the limits of British India."

Amendment
of section 19,
Act VIII,
1878.

3. To section 38 of the said Act the following proviso shall be added, namely :—

Amendment
of section 38,
Act VIII,
1878.

"Provided that where the shipment of any goods is permitted without a shipping bill, or in anticipation of the delivery of a shipping bill, the rate of duty and tariff valuation, if any, applicable shall be the rate and valuation in force at the time when shipment of the goods commences."

4. In clause (3) of section 49 of the said Act, after the word "goods" the words "or any specified goods or class of goods" shall be inserted; and the words "in India" are repealed.

Amendment
of section 49,
Act VIII,
1878.

5. (1) In section 137 of the said Act the following words are repealed, namely :—

Amendment
of section
137, Act
VIII, 1878.

"Unless the Chief Customs-officer shall, in the case of any customs-port or wharf, or of any class of goods, otherwise direct by notification in the local official Gazette."

(2) To the same section the following proviso shall be added, namely :—

"Provided that the Chief Customs-officer may, in the case of any customs-port or wharf, by notification in the local official Gazette, and subject to such restrictions and conditions, if any, as he thinks fit, exempt goods or any specified goods or class of goods or any specified person or class of persons from all or any of the provisions of this section."

6. In section 155 of the said Act, for the first paragraph shall be substituted the following, namely :—

Amendment
of section
155, Act
VIII, 1878.

"When by any law for the time being in force, a special duty is imposed on denatured spirit, the Local Government may make rules for ascertaining and determining what spirit imported into British India shall be deemed to be denatured spirit for the purposes of such law, and for causing such spirit to be denatured, if necessary, by its own officers, at the expense of the person importing the same, before the customs duties leviable thereon are levied."

Life Assurance Companies. [1914 : Act XIII.]

Post Office and Telegraph. [1914 : Act XIV.]

ACT No. XIII of 1914.¹

[16th September, 1914.]

An Act to amend the Indian Life Assurance Companies Act, 1912.

WHEREAS it is expedient to amend the ²Indian Life Assurance Companies VI of 1912. Act, 1912 ; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Indian Life Assurance Companies (Amendment) Act, 1914.

Amendment of section 4 (1) and Third Schedule, Act VI, 1912. 2. In section 4 (1) of the ²Indian Life Assurance Companies Act, 1912, VI of 1912. and in the forms of Balance Sheet (A) and (B) set forth in the Third Schedule to the Act, for the words "Comptroller General" the words "Controller of Currency" shall be substituted.

ACT No. XIV of 1914.³

[16th September, 1914.]

An Act further to amend the Indian Telegraph Act, 1885, and the Indian Post Office Act, 1898.

WHEREAS in view of the amalgamation of the offices of Director General of Telegraphs and of Director General of the Post Office of India, it is expedient further to amend the ⁴Indian Telegraph Act, 1885, and the ⁵Indian Post Office Act, 1898 ; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Indian Post Office and Telegraph (Amendment) Act, 1914.

Amendment of sections 3 and 29A of Act XIII of 1885. 2. In clause (6) of section 3 and in section 29A of the ⁴Indian Telegraph Act, 1885, for the word "Telegraphs", wherever it occurs, the words "Posts and Telegraphs" shall be substituted.

¹ For Statement of Objects and Reasons, see Gazette of India, 1914, Pt. V, p. 131, and for Proceedings in Council, see *ibid*, 1914, Pt. VI, pp. 998 and 1047.

² Genl. Acts, Vol. VII.

³ For Statement of Objects and Reasons, see Gazette of India, 1914, Pt. V, p. 132, and for Proceedings in Council, see *ibid*, 1914, Pt. VI, pp. 997 and 1047.

⁴ Genl. Acts, Vol. III.

⁵ Genl. Acts, Vol. V.

VI of 1898.

3. In section 2 of the ¹Indian Post Office Act, 1898,—Amendment
of section 2
of Act VI of
1898.(i) in clause (a), for the words “ the Post Office of India ” the words
“ Posts and Telegraphs ” shall be substituted ; and(ii) in clause (k), after the word “ department ”, the words “ estab-
lished for the purpose of carrying the provisions of this Act into
effect and ” shall be inserted.ACT No. XV of 1914.²

[16th September, 1914.]

An Act to amend the Indian Army Act, 1911.

VIII of
1911.WHEREAS it is expedient to amend the ³Indian Army Act, 1911; It is
hereby enacted as follows :—VIII of
1911.

1. This Act may be called the Indian Army (Amendment) Act, 1914.

Short title.

2. For section 114 of the ³Indian Army Act, 1911, the following section
shall be substituted, namely :—Substitution
of new sec-
tion 114, Act
VIII of
1911.“ 114. The following rules are enacted respecting the disposal of the
property of every person subject to this Act who dies or deserts :—Property of
deceased
persons and
deserters.(1) The commanding officer of the corps, detachment or department to
which the deceased person or deserter belonged shall secure all the moveable
property belonging to the deceased or deserter that is in camp or quarters,
and cause an inventory thereof to be made, and draw any pay and allowances
due to such person.(2) In the case of a deceased person who has left in a Government
savings bank (including any post office savings bank, however named) a
deposit not exceeding one thousand rupees, the commanding officer may, if he
thinks fit, require the secretary or other proper officer of the bank to pay the
deposit to him forthwith, notwithstanding anything in any departmental
rules ; and after the payment thereof in accordance with such requisition, no
person shall have any right in respect of the deposit except as hereinafter
provided.(3) In the case of a deceased person whose representative is on the spot
and has given security for the payment of the regimental or other debts in¹ Genl. Acts, Vol. V.² For Statement of Objects and Reasons, see Gazette of India, 1914, Pt. V, p. 133,
and for Proceedings in Council, see *ibid*, 1914, Pt. VII, pp. 999 and 1047.³ Genl. Acts, Vol. VII.

camp or quarters (if any) of the deceased, the commanding officer shall deliver over any property received under clauses (1) and (2) to that representative.

(4) In the case of a deceased person whose estate is not dealt with under clause (3), and in the case of any deserter, the commanding officer shall cause the moveable property to be sold by public auction, and shall pay the regimental and other debts in camp or quarters (if any), and, in the case of a deceased person, the expenses of his funeral ceremonies, from the proceeds of the sale and from any pay and allowances drawn under clause (1) and from the amount of the deposit (if any) received under clause (2).

(5) The surplus, if any, shall, in the case of a deceased person, be paid to his representative (if any), or in the event of no claim to such surplus being established within twelve months after the death, then the same shall be remitted to the prescribed person.

(6) In the case of a deserter, the surplus (if any) shall be forthwith remitted to the prescribed person and shall, on the expiry of three years from the date of his desertion, be forfeited to His Majesty, unless the deserter shall in the meantime have surrendered or been apprehended.

Meaning of
desertion.

Explanation.—A person shall be deemed to be a deserter within the meaning of this section who has without authority been absent from duty for a period of sixty days and has not subsequently surrendered or been apprehended."

ACT No. XVI OF 1914.¹

[16th September, 1914.]

An Act to amend the Indian Airships Act, 1911.

WHEREAS it is expedient to amend the ²Indian Airships Act, 1911 ; It is ^{XVII} of 1911.
hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Aircraft (Amendment) Act, 1914.

Substitution

of the word
"aircraft"

for the words
"airship"

and "air-

ships"

in Act XVII,
1911.

2. In the ²Indian Airships Act, 1911 (hereinafter called the said Act), for ^{XVII} of 1911.
the words "airship" and "airships", wherever they occur, there shall be
substituted the word "aircraft".

¹ For Statement of Objects and Reasons, see Gazette of India, 1914, Pt. V, p. 134 ; and for Proceedings in Council, see *ibid*, 1914, Pt. VI, pp. 1000 and 1047.

² Genl. Acts, Vol. VII.

3. For section 7 of the said Act, the following sections shall be substituted, Amendment of section 7, Act XVII, 1911.
namely :—

“ 7. (1) The Governor General in Council may, by notification in the Gazette of India, prohibit or regulate the navigation of aircraft over, or the entry of aircraft by flight into, British India or any part thereof, including the territorial waters adjacent thereto. Prohibition and regulation of navigation of aircraft.

(2) Subject to the control of the Governor General in Council, the Local Government of a province may, by notification in the local official Gazette, exercise in respect of the province the like powers of prohibiting or regulating navigation as are conferred by sub-section (1) on the Governor General in Council.

(3) Any notification issued under sub-section (1) or (2) may apply either to all aircraft or to any specified class or description of aircraft, and may prohibit navigation or entry as aforesaid, as the case may be, either at all times or at specified times or on specified occasions, and either absolutely or subject to specified exceptions or conditions, and such conditions may, without prejudice to the generality of the foregoing provision, require any aircraft—

- (a) to display specified signals or marks,
- (b) to comply with specified signals in a specified manner,
- (c) to land within a specified area or at a specified place, and
- (d) in the case of aircraft entering British India by flight, also to enter at a specified place.

7A. (1) Whenever an aircraft contravenes the conditions of a notification issued under section 7 requiring it to comply with specified signals in a specified manner, any person appointed in this behalf by the Governor General in Council may fire at or into such aircraft, and use any and every other means necessary to compel compliance. Compliance with signals.

(2) The Governor General in Council may delegate to any authority the power of making appointments under sub-section (1).”

4. For clause (5) of section 8 of the said Act the following clause shall be substituted, namely :— Amendment of section 8 (5), Act XVII, 1911.

“ (5) a notification issued under section 7 does or abstains from doing any act, unless, in the case of contravening a condition relating to navigation or landing, he proves that he was compelled thereto by stress of weather or other circumstances over which he had no control.”

ACT No. XVII OF 1914.¹

[16th September, 1914.]

An Act to amend certain enactments and to repeal certain other enactments.

WHEREAS it is expedient that certain formal amendments should be made in the enactments specified in the First Schedule;

And whereas it is also expedient that certain enactments specified in the Second Schedule, which are spent, or have ceased to be in force otherwise than by express specific repeal, or have by lapse of time or otherwise become unnecessary, should be expressly and specifically repealed;

It is hereby enacted as follows :—

Short title.

1. This Act may be called the Second Repealing and Amending Act, 1914.

Amendment of certain enactments.

2. The enactments specified in the First Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

Repeal of certain enactments.

3. The enactments specified in the Second Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

Savings.

4. The repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to;

and this Act shall not affect the validity, invalidity, effect or consequence of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued, or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognized or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

¹ For Statement of Objects and Reasons, *see* Gazette of India, 1914, Pt. V, p. 140; and for Proceedings in Council, *see ibid*, 1914, Pt. VI, pp. 1001 and 1048.

THE FIRST SCHEDULE.

AMENDMENTS.

(See section 2.)

| 1 | 2 | 3 | 4 |
|-------|-----|---|--|
| Year. | No. | Short title. | Amendments. |
| 1870 | VII | The Court Fees Act, 1870 . | In Schedule II, Article 6, for the words "Bail bond or other instrument of obligation given in pursuance of an order made by a Court or Magistrate under any section of the Code of Criminal Procedure, 1882, or the Code of Civil Procedure," the following shall be substituted, namely — "Bail bond or other instrument of obligation given in pursuance of an order made by a Court or Magistrate under any section of the Code of Criminal Procedure, 1898, or the Code of Civil Procedure, 1908, and not otherwise provided for by this Act." |
| 1893 | III | The Government Tenants (Punjab) Act, 1893 | 1. In the title and preamble, for the word "Punjab" the words "North-West Frontier Province" shall be substituted. 2. For section 1, the following section shall be substituted — "1. (1) This Act may be called the Government Tenants (North-West Frontier Province) Act, 1893. (2) It extends to the territories for the time being administered by the Chief Commissioner of the North-West Frontier Province." |
| 1* | * | * * | * * * |
| 1897 | X | The General Clauses Act, 1897. | 1. In section 3, after clause (8) (a), the following shall be inserted, namely:— "(8) (b) 'Central Provinces Act' shall mean an Act made by the Chief Commissioner of the Central Provinces in Council under the Indian Councils Acts, 1861 to 1909." |

* The entry *re* the Indian Tariff Act, 1894 (VIII of 1894), was repealed by s. 5 and Sch. II of the Indian Tariff (Amendment) Act, 1916 (IV of 1916), *infra*.

THE FIRST SCHEDULE—*contd.*

| 1 | 2 | 3 | 4 |
|-------|-----|--|--|
| Year. | No. | Short title. | Amendments. |
| 1897 | X | The General Clauses Act, 1897 — <i>contd.</i> | <p>2. To section 24 the following shall be added, namely :—</p> <p>“ and when any Act of the Governor General in Council or Regulation, which by a notification under section 5 or 5A of the Scheduled Districts Act, 1874, or any like law, has been extended to any local area, has, by a subsequent notification, been withdrawn from and re-extended to such area or any part thereof, the provisions of such Act or Regulation shall be deemed to have been repealed and re-enacted in such area or part within the meaning of this section.”</p> <p>3. After section 29, the following section shall be added, namely :—</p> <p>“ 30. In this Act the expression ‘ Act ’ of the Governor General in Council, wherever it occurs, except in section 5, and the word ‘ Act ’ in clauses (9), (12), (38), (48) and (50) of section 3 and in section 25 shall be deemed to include an Ordinance made and promulgated by the Governor General under section 23 of the 24 & 25 Vict., c. 67. Indian Councils Act, 1861.”</p> |
| 1908 | V | The Code of Civil Procedure, 1908. | <p>In the First Schedule, Order V, for clause (b) of rule 26, the following shall be substituted :—</p> <p>“(b) the Governor General in Council has, by notification in the Gazette of India, declared in respect of any Court situate in any such territory and not established or continued in the exercise of any such jurisdiction as aforesaid, that service by such Court of any summons issued by a Court under this Code shall be deemed to be valid service.”</p> |

THE FIRST SCHEDULE—*continued*.

| 1 | 2 | 3 | 4 |
|-------|-----|---|---|
| Year. | No. | Short title. | Amendments. |
| 1911 | II | The Indian Patents and Designs Act, 1911. | In sub-section (5) of section 16, after the word "conditions" the words "and restrictions" shall be inserted. |
| 1911 | IV | The Decentralization Act, 1911. | In Part I of the Schedule in No. 1 of the amendments made in Act XX of 1883, for the word "Commissioner" the words "the Commissioner" shall be substituted. |

THE SECOND SCHEDULE.

REPEALS.

(See section 3.)

| 1 | 2 | 3 | 4 |
|-------|------|--|---|
| Year. | No. | Short title. | Extent of repeal. |
| 1859 | XXIV | The Madras District Police Act, 1859. | In section 1, the words <i>from</i> "words importing the singular" <i>to</i> "include females." |
| 1865 | XXX | The Madras Irrigation and Canal Company Act, 1865. | So much as is unrepealed. |
| 1867 | III | The Public Gambling Act, 1867. | In section 1, the words <i>from</i> "words in the singular" <i>to</i> "include females." |
| 1872 | IV | The Punjab Laws Act, 1872. | Section 4 and the Second Schedule. |
| 1875 | XV | The Punjab Laws Amendment Act, 1875. | In section 1, the words "and it shall come into force at once." |
| 1879 | XIV | The Hackney Carriage Act, 1879. | In section 1, the words "and it shall come into force at once; but". |
| 1880 | XVI | The Madras Irrigation and Canal Company Act, 1880. | The whole. |

THE SECOND SCHEDULE—*contd.*

| 1 | 2 | 3 | 4 |
|-------|------|--|---|
| Year. | No. | Short title. | Extent of repeal. |
| 1881 | XXIV | The Punjab Laws Amend- ment Act, 1881. | In section 1, the words "and shall come into force at once." |
| 1885 | XXI | The Madras Civil Courts Act, 1885. | In section 1, the word "and" after sub-section (1), and sub-section (2). |
| 1889 | VI | The Probate and Adminis- tration Act, 1889 | 1. In the title and preamble the words "the Court-fees Act, 1870." 2. The heading above section 18. 3. Section 18, so much as is unrepealed. |
| 1892 | VII | The Madras City Civil Court Act, 1892. | In section 1, the word "and" after sub-section (1), and sub-section (2). |
| 1899 | XVI | The Northern India Canal and Drainage (Amendment) Act, 1899. | In section 1, the word "and" after sub-section (1), and sub-section (2). |
| 1908 | V | The Code of Civil Procedure, 1908. | Section 156 and the Fifth Schedule. |
| " | IX | The Indian Limitation Act, 1908. | Section 32 and the Third Schedule. |
| 1909 | IV | The Whipping Act, 1909 . | Section 8 and the Schedule. |
| 1911 | XVII | The Indian Airships Act, 1911. | In section 10, the word "of" in the second place where it occurs. |
| 1912 | II | The Co-operative Societies Act, 1912 | Section 50. |
| " | IV | The Indian Lunacy Act, 1912. | Section 101 and the Second Schedule. |
| " | VI | The Indian Life Assurance Companies Act, 1912. | Section 42. |
| " | VIII | The Wild Birds and Animals Protection Act, 1912. | Section 9. |
| 1914 | VIII | The Indian Motor Vehicles Act, 1914. | In the proviso to section 9, the words "by such authority and". |

ACT No. I of 1915¹

[12th January, 1915.]

An Act to continue in force the provisions of certain Ordinances.

24 & 25
Vict., c. 67.

WHEREAS the ²Ordinances mentioned in the Schedule are temporary in their duration and in virtue of section 22 of the Indian Councils Act, 1861, are limited to expire within the period of six months from their promulgation ; and

Whereas owing to the state of war existing between His Majesty the King Emperor and certain foreign Powers it is expedient to provide for the continuance as in this Act mentioned of the provisions contained in those Ordinances ;

It is hereby enacted as follows :—

1. This Act may be called the Emergency Legislation Continuance Act, Short title. 1915

2. The provisions of the ²Ordinances mentioned in the Schedule shall have effect as if they had been enacted by the Governor General in Council and shall be in force during the continuance³ of the present war and for a period of six months thereafter :

Continuance
of provisions
of Ordinances in
Schedule.

Provided that the Governor General in Council may by notification in the Gazette of India direct that any provision in any of the said ²Ordinances shall cease to be in force at any earlier date which may be specified in such notification.

SCHEDULE.

²ORDINANCE MADE BY THE GOVERNOR GENERAL OF INDIA UNDER SECTION 23 OF THE INDIAN COUNCILS ACT, 1861.

(See section 2.)

| Year. | No. | Short title. |
|-------|-----|---|
| 1914 | I | The Indian Naval and Military News (Emergency) Ordinance, 1914. |
| „ | II | The Impressment of Vessels Ordinance, 1914. |

¹ For Proceedings in Council, see Gazette of India, 1915, Pt. VI, p. 16.

The Act has been declared in force in the Sonthal Parganas by notification under s. 3 (3) (a) of the Sonthal Parganas Settlement Regulation, 1872 (III of 1872), as amended by s. 3 of the Sonthal Parganas Justice and Laws Regulation, 1899 (III of 1899), see B. and O. Gazette, 1916, Pt. II, p. 1338.

² For Ordinances, see Appendix

³ As to date of termination of the war, see Act V of 1919, *infra*.

SCHEDULE—*contd.*

(See section 2.)

| Year. | No. | Short title. |
|-------|------|--|
| 1914 | III | The Foreigners Ordinance, 1914. |
| " | IV | The Indian Volunteers Ordinance, 1914. |
| " | V | The ingress into India Ordinance, 1914. |
| " | VI | The Commercial Inter course with Enemies Ordinance, 1914 |
| " | VII | The Foreigners (Amendment) Ordinance, 1914. |
| " | VIII | The Foreigners (Further Amendment) Ordinance, 1914 |
| " | IX | The Articles of Commerce Ordinance, 1914. |

ACT No. III OF 1915.¹

[17th March, 1915.]

An Act to amend the Foreigners Act, 1864.

WHEREAS it is expedient to amend the ²Foreigners Act, 1864; It is hereby III of 1864. enacted as follows :—

Short title. 1. This Act may be called the Foreigners (Amendment) Act, 1915.

Amendment of section 1 of Act III of 1864. 2. In section 1 of the ²Foreigners Act, 1864, for the words "not being III of 1864. either a natural born subject of Her Majesty within the meaning of the Statute 3 and 4 William IV, Chapter 85, section 81, or a native of British India" the following words shall be substituted, namely :—

"(a) who is not a natural born British subject as defined in sub-sections (1) and (2) of section 1 of the British Nationality and Status of Aliens Act, 1914, or

4 & 5 Geo. V, c. 17.

¹ For Statement of Objects and Reasons, see Gazette of India, 1914, Pt. V, p. 141, for Report of Select Committee, see *ibid*, 1915, Pt. V, p. 21; and for Proceedings in Council, see *ibid*, 1914, Pt. VI, p. 1002, and *ibid*, 1915, Pt. VI, pp. 15, 36 and 187.

The Act has been declared in force in the Sonthal Parganas by notification under s. 3 (a) of the Sonthal Parganas Settlement Regulation, 1872 (III of 1872), as amended by s. 3 of the Sonthal Parganas Settlement and Laws Regulation, 1899 (III of 1899), B. and O. Gazette, 1916, Pt. II, p. 1338.

² Genl. Acts, Vol. I.

- (b) who has not been granted a certificate of naturalisation as a British subject under any law for the time being in force in British India :

Provided that any British subject who, under any law for the time being in force in British India, ceases to be a British subject, shall thereupon be deemed to be a foreigner."

III of 1864.

3. After section 3 of the ¹Foreigners Act, 1864, the following section shall be inserted, namely :—

Insertion of new section 3A, Act III of 1864.

" 3A. (1) Whenever in a Presidency town the Commissioner of Police, or elsewhere the Magistrate of the District, considers that the Local Government should be moved to issue an order under section 3 in respect of any foreigner who is within the limits of such Presidency town or of the jurisdiction of such Magistrate, he may report the case to the Local Government and at the same time issue a warrant for the apprehension of such foreigner.

Foreigner may be apprehended and detained pending order of removal.

(2) Any officer issuing a warrant under sub-section (1) may, in his discretion, direct by endorsement on the warrant that if such foreigner executes a bond with or without sureties for his attendance at a specified place and time, the person to whom the warrant is directed shall take such security and release such foreigner from custody.

(3) Any person executing a warrant under sub-section (1) may search for and apprehend the foreigner named in such warrant; and, subject to any direction issued under sub-section (2), shall forthwith cause such foreigner when apprehended to be produced before the officer issuing the warrant.

(4) When a foreigner for whose apprehension a warrant has been issued under sub-section (1) is produced or appears before the officer issuing such warrant, such officer may direct him to be detained in custody pending the orders of the Local Government, or may release him on his executing a bond with or without sureties to appear at a specified place and time and thereafter if and when required until such orders are obtained.

(5) Any officer who has, in accordance with the provisions of sub-section (4), ordered a foreigner to be detained or released on his executing a bond shall forthwith report the fact to the Local Government. On the receipt of a report under this sub-section the Local Government shall without delay either direct that the foreigner be discharged or make an order for the removal of such foreigner in accordance with the provisions of section 3."

¹ Genl. Acts, Vol. I.

ACT No. IV of 1915.¹

[19th March, 1915.]

An Act to provide for special measures to secure the public safety and the defence of British India and for the more speedy trial of certain offences.

WHEREAS owing to the existing state of war it is expedient to provide for special measures to secure the public safety and the defence of British India and for the more speedy trial of certain offences ; It is hereby enacted as follows :—

Short title,
extent and
duration.

1. (1) This Act may be called the Defence of India (Criminal Law Amendment) Act, 1915.

(2) It extends to the whole of British India including British Baluchistan, the Southal Parganas and the district of Angul.

(3) This section and section 2 shall come into operation at once. The Governor General in Council may, by notification in the Gazette of India, ²direct that the rest of the Act shall come into operation in any province or part thereof on such date as may be specified in such notification

(4) This Act shall be in force during the continuance of the ³present war and for a period of six months thereafter :

Provided that the expiration of this Act shall not affect the validity of anything done in pursuance of it and any person convicted under this Act may be punished as if it had continued in force, and all prosecutions and other legal proceedings pending under this Act at the time of the expiration thereof may be completed and carried into effect, and the sentences carried into execution as if this Act had not expired.

Power to
make rules.

2. (1) The Governor General in Council may make ⁴rules for the purpose of securing the public safety and the defence of British India and as to the powers and duties of public servants and other persons in furtherance of that purpose.

¹ For Proceedings in Council, see Gazette of India, 1915, Pt. VI, p. 243.

For application of this Act to Bera and certain other areas under the Indian (Foreign Jurisdiction) Order in Council, 1902, see Foreign and Political Department No. 394-I. B., dated 9th April, 1915, in Leg. and O. W.

² For notifications directing that sections 3 to 11 shall be in force in certain districts of the Punjab, Bengal, Bihar and Orissa, United Provinces, Assam, and Burma, see Leg and O. W.

³ As to date of termination of the war, see Act V of 1919, *infra*.

⁴ For rules under s. 2, see Leg. and O. W.

In particular and without prejudice to the generality of the foregoing power, rules under this section may be made—

- (a) to prevent persons communicating with the enemy or obtaining information which may be used for that purpose ;
- (b) to secure the safety of His Majesty's forces and ships and to prevent the prosecution of any purpose likely to jeopardise the success of the operations of His Majesty's forces or the forces of His Allies or to assist the enemy ;
- (c) to prevent the spread of false reports or reports likely to cause disaffection or alarm or to prejudice His Majesty's relations with Foreign Powers or to promote feelings of enmity and hatred between different classes of His Majesty's subjects ;
- (d) to empower any civil or military authority to issue such orders and take such measures as may be necessary to secure the safety of railways, ports, dockyards, telegraphs, post offices, works for the supply of gas, electric light or water, sources of water supply, all means of communication and any areas which may be notified by such civil or military authority, as areas which it is necessary to safeguard in the public interest ;
- (e) to enable any naval or military authority to take possession of any property, moveable or immoveable, for naval or military purposes, and to issue such orders and do such acts in respect of any property as may be necessary to secure the public safety or the defence of British India or any part thereof ;
- (f) to empower any civil or military authority where, in the opinion of such authority, there are reasonable grounds for suspecting that any person has acted, is acting or is about to act in a manner prejudicial to the public safety, to direct that such person shall not enter, reside or remain in any area specified in writing by such authority, or that such person shall reside and remain in any area so specified, or that he shall conduct himself in such manner or abstain from such acts, or take such order with any property in his possession or under his control, as such authority may direct ;
- (g) to prohibit or regulate the possession of explosives, inflammable substances, arms and all other munitions of war ;
- (h) to prohibit anything likely to prejudice the training or discipline of His Majesty's forces and to prevent any attempt to tamper with the loyalty of persons in the service of His Majesty or to

dissuade persons from entering the military or police service of His Majesty ;

- (i) to empower any civil or military authority to enter and search any place if such authority has reason to believe that such place is being used for any purpose prejudicial to the public safety or to the defence of British India and to seize anything found there which he has reason to believe is being used for any such purpose ;
- (j) to provide for the arrest of persons contravening or reasonably suspected of contravening any rule made under this section and prescribing the duties of public servants and other persons in regard to such arrests ,
- (k) to prescribe the duties of public servants and other persons as to preventing any contravention of rules made under this section and to prohibit any attempt to screen persons contravening any such rule from punishment ,
- (l) otherwise to prevent assistance being given to the enemy or the successful prosecution of the war being endangered ;
- ¹[(m) to require that there shall be placed, at the disposal of the Governor General in Council, the whole or any part of the output of any factory, workshop, mine or other industrial concern for the manufacture, preparation or extraction of any article or thing which, in his opinion, can be utilised in the prosecution of the present war ;
- (n) to take possession of, and use for the purpose of the Governor General in Council any such factory, workshop, mine or industrial concern or any appurtenances or plant thereof ;
- (o) to require any work in any such factory, workshop, mine or industrial concern to be done in accordance with the directions of the Governor General in Council ;
- (p) to regulate or restrict the carrying out of the work in any such factory, workshop, mine or industrial concern, or to remove the plant therefrom with the object of increasing the output of any other such factory, workshop, mine or industrial concern ;
- (q) to provide for any other action which may be necessary to regulate the possession, or to facilitate the collection, manufacture, preparation or extraction of any article or thing, which

¹ Clauses (m) to (r) were inserted by s. 2 of the Defence of India (Amendment) Act, 1916 (II of 1916), *infra*.

can, in the opinion of the Governor General in Council, be utilised in the prosecution of the present war ; and

- (r) to regulate the sailings of British steamers from any port in British India, and to reserve, for the use of the Governor General in Council, all or any accommodation of whatever kind for the carriage of persons, animals or goods on any such steamers.]

(2) Rules made under this section may provide that any contravention thereof or of any order issued under the authority of any such rule shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both, or if the intention of the person so contravening any such rule or order is to assist the King's enemies or to wage war against the King, may provide that such contravention shall be punishable with death, transportation for life or imprisonment for a term which may extend to ten years, to any of which punishments fine may be added.

(3) All rules made under this section shall be published in the Gazette of India and shall thereupon have effect as if enacted in this Act.

3. (1) The Local Government may by order in writing direct that any person accused of anything which is an offence in virtue of any rule made under section 2, or accused of any offence punishable with death, transportation or imprisonment for a term which may extend to seven years, or of criminal conspiracy to commit, or of abetting, or of attempting to commit or abet any such offence, shall be tried by Commissioners appointed under this Act.

Power of Local Government to direct accused person to be tried by Commissioners.

(2) Orders under sub-section (1) may be made in respect of all persons accused of any offence referred to in that sub-section, or in respect of any class of person so accused, or in respect of persons or classes of persons accused of any particular offence therein referred to or accused of any class of such offences.

(3) No order under sub-section (1) shall be made in respect of or be deemed to include any person who has been committed under the ¹Code of Criminal Procedure, 1898, for trial before a High Court, or in whose case an order for trial has been made under section 6 of the ²Indian Criminal Law Amendment Act, 1908, but, save as aforesaid, an order under that sub-section may be made in respect of or may include any person accused of any offence referred to therein whether such offence was committed before or after the commencement of this Act.

Act V of 1898.

XIV of 1908.

¹ Genl. Acts, Vol. V.

² Genl. Acts, Vol. VI.

Appointment
and quali-
fications of
Commis-
sioners.

4. (1) Commissioners for the trial of persons under this Act shall be appointed by the Local Government.

(2) Such Commissioners may be appointed for the whole province or any part thereof or for the trial of any particular accused person or class of accused persons.

(3) All trials under this Act shall be held by three Commissioners, of whom at least two shall be persons who have served as Sessions Judges or Additional Sessions Judges for a period of not less than three years, or are persons qualified under section 2 of the Indian High Courts Act, 1861, for appointment as Judges of a High Court or are advocates of a Chief Court or pleaders of ten years' standing. ^{24 & 25 Vict, c. 104.}

Procedure of
Commis-
sioners.

5. (1) Commissioners appointed under this Act may take cognizance of offences without the accused being committed to them for trial, and, in trying accused persons, shall, subject to any rules made by the Local Government in this behalf, follow the procedure prescribed by the ¹Code of Criminal Procedure, 1898, for the trial of warrant cases by Magistrates. ^{Act V of 1898.}

Provided that such Commissioners shall make a memorandum only of the substance of the evidence of each witness examined, and shall not be bound to adjourn any trial for any purpose unless such adjournment is in their opinion necessary in the interests of justice

(2) In the event of any difference of opinion between the Commissioners the opinion of the majority shall prevail.

Powers of
Commis-
sioners.

6. (1) The judgment of Commissioners appointed under the Act shall be final and conclusive and such Commissioners may pass upon any person convicted by them any sentence authorised by law for the punishment of the offence of which such person is convicted and no order of confirmation shall be necessary in the case of any sentence passed by them.

(2) If in any trial under this Act it is proved that the accused person has committed any offence whether referred to in section 3 or in any order under that section or not, the Commissioners may convict such accused person of such offence and pass any sentence authorised by law for the punishment thereof.

Application
of Criminal
Procedure
Code subject
to modifica-
tions to

7. The provisions of the ¹Code of Criminal Procedure, 1898, so far as they are inconsistent with the special procedure prescribed by or under this Act, shall not apply to the proceedings of Commissioners appointed under this Act, but save as otherwise provided, that Code shall apply to such pro- ^{Act V of 1898.}

¹ Genl. Acts, Vol. V.

ceedings and the Commissioners shall have all the powers conferred by the Code on a Court of Session exercising original jurisdiction.

proceedings
under this
Act.

8. (1) Notwithstanding the provisions of the ¹Code of Criminal Procedure, 1898, or of any other law for the time being in force, or of anything having the force of law by whatsoever authority made or done, there shall be no appeal from any order or sentence of Commissioners appointed under this Act, and no Court shall have authority to revise any such order or sentence, or to transfer any case from such Commissioners, or to make any order under section 491 of the ¹Code of Criminal Procedure, 1898, or have any jurisdiction of any kind in respect of any proceedings under this Act.

Exclusion of
interference
of other cri-
minal courts.

(2) Nothing in sub-section (1) shall be deemed to affect the power of the Governor General in Council or the Local Government to make orders under section 401 or 402 of the ¹Code of Criminal Procedure, 1898, in respect of persons sentenced by Commissioners under this Act.

st V of
98.

of 1872.

9. Notwithstanding anything contained in the ²Indian Evidence Act, 1872, where the statement of any person has been recorded by a Magistrate, such statement may be admitted in evidence in any trial before Commissioners appointed under this Act if such person is dead or cannot be found or is incapable of giving evidence, and the Commissioners are of opinion that such death, disappearance or incapacity has been caused in the interest of the accused.

Special rule
of evidence.

10. The Local Government may, by notification in the local official Gazette, make rules providing for—

Rule-making
powers of
Local
Government.

- (i) the times and places at which Commissioners appointed under this Act may sit ;
- (ii) the procedure of such Commissioners including the appointment and powers of their President, and the procedure to be adopted in the event of any Commissioner being prevented from attending throughout the trial of any accused person ;
- (iii) the manner in which prosecutions before such Commissioners shall be conducted, and the appointment and powers of persons conducting such prosecution ;
- (iv) the execution of sentences passed by such Commissioners ;
- (v) the temporary custody or release on bail of persons referred to or included in any order made under sub-section (1) of section 3, and for the transmission of records to the Commissioners ; and

¹ Genl. Acts, Vol. V.

² Genl. Acts, Vol. II.

(vi) any matter which appears to the Local Government to be necessary for carrying into effect the provisions of the Act relating or ancillary to trials before Commissioners.

Savings. 11. No order under this Act shall be called in question in any Court, and no suit, prosecutions or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

ACT No. VI of 1915.¹

[22nd March, 1915.]

An Act to extend the powers of the Governor General in Council during the continuance of war to make rules under the Indian Patents and Designs Act, 1911.

Short title,
extent, etc.

1. (1) This Act may be called the Indian Patents and Designs (*Temporary Rules*) Act, 1915.

(2) It extends to the whole of British India including British Baluchistan and the Sonthal Parganas.

(3) This Act and the rules made thereunder shall be in force during the continuance of the ²present war and for a period of six months thereafter.

Definitions.

2. In this Act the expression 'subject of any State at war with His Majesty' includes—

(i) any person resident and carrying on business in the territory of a State at war with His Majesty, and

(ii) with reference to a company, any company the business whereof is managed or controlled by such subjects, or is carried on wholly or mainly for the benefit or on behalf of such subjects, notwithstanding that the company may be registered within His Majesty's dominions.

Power to
make rules.

3. (1) The power of the Governor General in Council under section 77 of the ³Indian Patents and Designs Act, 1911, to make ⁴rules shall include II of 1911. power to make rules—

(a) for avoiding or suspending in whole or in part any patent or licence, the person entitled to the benefit of which is the subject of any State at war with His Majesty ;

¹ For Statement of Objects and Reasons, *see* Gazette of India 1915, Pt. V, p. 16; and for Proceedings in Council, *see ibid*, 1915, Pt. VI, pp 36 and 309.

² As to date of termination of the war, *see* Act V of 1919, *infra*.

³ Genl Acts, Vol VII.

⁴ For rules under s. 3, *see* Leg. and O. W.

- (b) for avoiding or suspending the registration, and all or any rights conferred by the registration, of any design the proprietor whereof is a subject as aforesaid ;
- (c) for avoiding or suspending any application made by any such person under the said Act ;
- (d) for enabling the grant, in favour of persons other than such persons as aforesaid, on such terms and conditions, and either for the whole term of the patent or registration or for such less period as may be thought fit, of licences to make, use, exercise, or vend patented inventions and registered designs so liable to avoidance or suspension as aforesaid ; and
- (e) for extending the time within which any act or thing may be or is required to be done under the said Act.

(2) If the rules made under this Act so provide, the rules or any of them shall have effect from the passing of this Act.

(3) All rules made under this Act shall be published in the Gazette of India, and on such publication shall have effect as if enacted in this Act.

4. The power to make rules conferred by section 3 (1) (a) and (d) of this Act shall be exercisable in respect of any exclusive privilege acquired under the ¹Inventions and Designs Act, 1888, as if such exclusive privilege had been a patent granted under the ²Indian Patents and Designs Act, 1911; and the power to make rules conferred by section 3 (1) (e) of this Act in respect of anything to be done under the ²Indian Patents and Designs Act, 1911, shall be exercisable in respect of anything to be done under the ¹Inventions and Designs Act, 1888.

Power in case of exclusive privileges under Act V of 1888.

ACT No. VII OF 1915.³

[22nd March, 1915.]

An Act to declare the law in force in certain territory added to the Province of Delhi.

WHEREAS by proclamation published in Notification No. 984-C., dated 22nd day of February, 1915, the Governor General in Council, with the sanction

¹ Act V of 1888 was repealed by Act II of 1911.

² Genl Acts, Vol. VII.

³ For Statement of Objects and Reasons, see Gazette of India, 1915, Pt. V, p. 19; and for Proceedings in Council, see *ibid*, 1915, Pt. VI, pp. 110 and 310.

and approbation of the Secretary of State for India, has been pleased to take under his immediate authority and management the territory mentioned in Schedule I, which was formerly included within the United Provinces of Agra and Oudh, and to include the said territory in the Province of Delhi with effect from the 1st April, 1915 ;

And whereas it is expedient to declare the law in force in the said territory ;

It is hereby enacted as follows :—

Short title
and
commence-
ment.
Application
to added area
of law in
force in exist-
ing Province
of Delhi.

1. (1) This Act may be called the Delhi Laws Act, 1915 ;

(2) It shall come into force on the first day of April, 1915.

2. All enactments (except the enactments specified in Schedule II) for the time being in force in the territory specified in Schedule A to the ^{XIII of} 1912¹ Delhi Laws Act, 1912, and all notifications, orders, schemes, rules, forms and by-laws issued, made or prescribed under such enactments shall be deemed to be in force in the territory specified in Schedule I in the same manner and subject to the same modifications as they are for the time being in the territory specified in the said Schedule to the said Act.

Continuance
in added area
of certain
laws now in
force in the
United
Provinces

3. The enactments specified in Schedule III, and all notifications, orders, schemes, rules, forms and by-laws issued, made or prescribed under those enactments shall continue to be in force in the territory specified in Schedule I :

Provided that in the enactments so continued and in all notifications, orders, schemes, rules, forms and by-laws issued, made or prescribed thereunder, reference to a Local Government, the Lieutenant-Governor of the United Provinces of Agra and Oudh, or the Board of Revenue for the United Provinces shall be read as referring to the Chief Commissioner of Delhi ; references to a High Court or the High Court of Judicature of the North-Western Provinces as referring to the ²Chief Court of the Punjab ; and references to the official gazette for the United Provinces as referring to the Gazette of India

Provision for
facilitating
application
of certain
enactments.

4. For the purpose of facilitating the application to the territory mentioned in Schedule I of the enactments referred to in section 3 of the powers conferred by sections 4 and 5 of the ^{XIII of} 1912¹ Delhi Laws Act, 1912, shall be exercisable in respect thereof.

Exclusion of
certain
enactments
from the
added area.

5. Save as provided in sections 2 and 3 no enactment which is in force in the United Provinces of Agra and Oudh or any part thereof shall continue to be in force in the territory specified in Schedule I.

¹ Genl Acts, Vol. VII.

² Now the High Court at Lahore, see Act IX of 1919, *infra*.

6. Nothing in this Act shall affect any proceeding which at the commencement thereof is pending in respect of any of the territory mentioned in Schedule I or of anything arising in such territory and every such proceeding shall be continued as if this Act had not been passed :

Provided that the Local Government may, by notification in the Gazette of India, direct that any proceeding, criminal, civil or revenue, other than a proceeding pending before the High Court of Judicature for the North-West Provinces, shall be transferred to, and disposed of by, the corresponding authority of the Delhi Province.

XIII of
1912.

7. In section 7 of the ¹Delhi Laws Act, 1912, for the words "the territory mentioned in Schedule A" the words "the Province of Delhi" shall be substituted. Amendment
of section 7
of Act XIII
of 1912.

XIII of
1912.

8. This Act shall be construed with, and deemed to be part of, the ¹Delhi Construction Laws Act, 1912.

SCHEDULE I.

TERRITORY ADDED TO THE PROVINCE OF DELHI.

(See section 2.)

Revenue estates of—

1. Subehpur.
2. Jagatpur.
3. Baqiabad.
4. Beharipur.
5. Saadatpur Mahal Gujran.
6. Saadatpur Musalmanan.
7. Saadatpur Amad Delhi.
8. Wazirabad.
9. Khajuari Paramad.
10. Khajuri Khas.
11. Garhi Mendu.
12. Timarpur.
13. Chandrawal.
14. Usmanpur.
15. Ghonda patti Gujran Khadar.
16. Ghonda patti Chauhan Khadar.

¹ Genl. Acts, Vol. VII.

SCHEDULE I—*contd*

17. Andhavli.
18. Kaithwara.
19. Silampur Amad Delhi.
20. Ghondli Khadar.
21. Jatwara Khurd.
22. Mubarakpur Reti.
23. Shakarpur Khadar.
24. Nagla Manchi.
25. Shampur.
26. Gharaunda Nimka Khadur.
27. Nagli Razapur.
28. Chilla Saraunda Khadar.
29. Qarawalnagar *ur*f Dharauti Kalan.
30. Jivanpur Johripur.
31. Mustafabad.
32. Mirpur Turk.
33. Ziauddinpur.
34. Khanpur Dhani.
35. Manjpur.
36. Ghonda patti Gujran Bangar.
37. Ghonda patti Chauhan Bangar
38. Jafraabad.
39. Uldanpur.
40. Babarpur.
41. Siqdarpur.
42. Gokalpur.
43. Sabauli.
44. Mandauli.
45. Taharpur.
46. Jhilmila.
47. Chandavli *ur*f Shadara.
48. Silampur Bangar.
49. Silampur Khadar.
50. Ghondli Bangar.
51. Kakarduman.
52. Khureji Khas.
53. Khureji Baramad.
54. Shakarpur Khas Bangar.
55. Mandavli Fazilpur.

SCHEDULE I—*contd.*

- 56. Hasanpur Bhuapur.
- 57. Ghazipur.
- 58. Khichripur.
- 59. Gharaunda Nimka Bangar (Patparganj).
- 60. Shakaipur Baramad.
- 61. Kotla.
- 62. Chilla Sarauda Bangar.
- 63. Dalupura.
- 64. Kondli.
- 65. Gharauli.

SCHEDULE II.

ENACTMENTS IN FORCE IN THE DELHI PROVINCE WHICH WILL NOT BE IN FORCE
IN THE TERRITORY ADDED TO THAT PROVINCE.

(See section 2.)

| Year. | Number | Short title. | REMARKS. |
|-------|--------|--|----------|
| 1 | 2 | 3 | 4 |
| | | <i>Acts of the Governor General of India in Council.</i> | |
| 1887 | XVI | The Punjab Tenancy Act, 1887. | ..... |
| " | XVII | The Punjab Land Revenue Act, 1887. | ..... |
| 1900 | XIII | The Punjab Alienation of Land Act, 1900. | ..... |
| | | <i>Punjab Acts.</i> | |
| " | II | The Punjab Land Preservation (<i>Chos</i>) Act, 1900. | ..... |
| 1912 | V | The Colonization of Government Lands (Punjab) Act, 1912. | ..... |
| 1913 | I | The Punjab Pre-emption Act, 1913. | ..... |
| " | II | The Redemption of Mortgages (Punjab) Act, 1913. | ..... |

SCHEDULE III.

ENACTMENTS IN FORCE IN THE UNITED PROVINCES OF AGRA AND OUDH WHICH WILL CONTINUE TO BE IN FORCE IN THE TERRITORY ADDED TO THE DELHI PROVINCE.

(See section 3.)

| Year. | Number. | Short title. | REMARKS. |
|-------|---------|--|---|
| 1 | 2 | 3 | 4 |
| | | <i>Acts of the Governor General of India in Council</i> | |
| 1882 | IV | The Transfer of Property Act, 1882 | ... .. |
| " | V | The Indian Easements Act, 1882 | ..... |
| 1891 | VIII | An Act to extend the Indian Easements Act, 1882, to certain areas in which that Act is not in force. | ..... |
| | | <i>United Provinces Acts.</i> | |
| 1901 | II | The Agra Tenancy Act, 1901. | ..... |
| " | III | The United Provinces Land Revenue Act, 1901. | ..... |
| 1904 | I | The United Provinces General Clauses Act, 1904. | In so far as it applies to the Agra Tenancy Act, 1901, and the United Provinces Land Revenue Act, 1901. |

ACT No IX OF 1915.¹

[25th March, 1915.]

An Act further to amend the Sea Customs Act, 1878.

WHEREAS it is expedient further to amend the ²Sea Customs Act, 1878; VIII of 1878.
It is hereby enacted as follows :—

- Short title. 1. This Act may be called the Sea Customs (Amendment) Act, 1915.
- Amendment of section 37, Act VIII of 1878. 2. In the proviso to section 37 of the ³Sea Customs Act, 1878, for the words "on which application is made to clear such goods from the warehouse for home consumption" the following shall be substituted, namely, "of the

¹ For Statement of Objects and Reasons, see Gazette of India, 1915, Pt. V, p. 31; and for Proceedings in Council, see *ibid.*, 1915, Pt. VI, pp. 187 and 342.

² Genl. Acts, Vol. II.

actual removal of such goods from the warehouse in the case of goods delivered out of a warehouse for home consumption, and in the case of goods delivered out of a warehouse for removal under bond to be re-warehoused where the duty is paid on such goods without their being re-warehoused, the rate and valuation (if any) in force on the date on which duty is paid."

ACT No. XI of 1915.¹

[22nd September, 1915.]

An Act to amend certain enactments and to repeal an enactment.

WHEREAS it is expedient that certain formal amendments should be made in the enactments specified in the First Schedule ;

And whereas it is also expedient that the enactment specified in the Second Schedule, which is unnecessary, should be expressly and specifically repealed ; It is hereby enacted as follows :

- | | |
|---|---|
| <p>1. This Act may be called the Repealing and Amending Act, 1915.</p> <p>2. The enactments specified in the First Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.</p> <p>3. The enactment specified in the Second Schedule is hereby repealed to the extent mentioned in the fourth column thereof.</p> <p>4. This Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued, or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of, or from, any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing ;</p> <p>nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognized or derived by, in or from any enactment hereby repealed.</p> | <p>Short title.</p> <p>Amendment of certain enactments.</p> <p>Repeal of certain words and figures in Act VIII of 1915.</p> <p>Savings.</p> |
|---|---|

¹ For Statement of Objects and Reasons, see Gazette of India, 1915, Pt. V, p. 50 ; and for Proceedings in Council, see *ibid.*, 1915, Pt. VI, pp. 439 and 463

The Act has been declared in force in the Sonthal Parganas by notification under s. 3 (3) (a) of the Sonthal Parganas Settlement Regulation, 1872 (III of 1872), as amended by s. 3 of the Sonthal Parganas Justice and Laws Regulation, 1399 (III of 1899), Bihar and Orissa Gazette, 1916, Part II, p. 1338.

THE FIRST SCHEDULE.

AMENDMENTS.

(See section 2)

| 1 | 2 | 3 | 4 |
|------|-----|--|---|
| Year | No. | Short title | Amendments. |
| 1867 | XXV | The Press and Registration of Books Act, 1867. | In section 21, after the word "books" the words "or papers" shall be inserted. |
| 1882 | IV | The Transfer of Property Act, 1882. | In the last paragraph of section 59, and in clause (c) of section 69 of the said Act, for the words "and Akyab" and for the words "or Akyab", the words "Akyab and in any other town which the Governor General in Council may, by notification in the Gazette of India, specify in this behalf," and the words "Akyab or in any other town which the Governor General in Council may, by notification in the Gazette of India, specify in this behalf" shall be substituted, respectively. |
| 1887 | IX | The Provincial Small Cause Courts Act, 1887. | In section 8, sub-section (1), for the words "an Additional Judge" the words "Additional Judges" shall be substituted, and in sub-sections (2) and (3) of the same section, for the words "the Additional" the words "an Additional" shall be substituted, and in sub-section (4) of the same section, before the word "Additional" the word "senior" shall be inserted. |
| 1911 | III | The Criminal Tribes Act, 1911. | In section 10 for the word "direct" the word "issue" shall be substituted, and after the word "tribe" the words "either or both of the following directions namely," shall be inserted, and the word "or" where that word occurs between clauses (a) and (b), shall be omitted. |
| 1913 | VII | The Indian Companies Act, 1913 | In section 246, after the word "company" where that word occurs for the last time in sub-section (1), the following shall be added.— "and shall make rules providing for all matters relating to the winding up of companies which, by this Act, are to be prescribed." |

THE SECOND SCHEDULE.

REPEAL.

(See section 3.)

| 1 | 2 | 3 | 4 |
|-------|------|--|--|
| Year. | No. | Short title. | Extent of repeal. |
| 1915 | VIII | The Assam Labour and Emigration (Amendment) Act, 1915. | In the Schedule the words and figures, "s. 174, clause (a)." |

ACT No. XIV of 1915.¹

[1st October, 1915.]

An Act to provide facilities for the payment to a public authority of certain moneys, the payment of which is, or may be, prohibited owing to the present war, and to provide for other matters in connection with trading with foreigners.

WHEREAS it is expedient to provide facilities for the payment to a public authority of certain moneys, the payment of which is, or may be, prohibited by, or under the provisions of, any Proclamation or Order in Council of His Majesty for the time being in force, relating to trading, commercial intercourse, or other dealings with subjects of States at war with His Majesty, and to afford like facilities in the case of moneys due to certain classes of foreigners, and to extend the law relating to the contravention of the provisions of any such Proclamation or Order in Council, and to make further provisions as to dealings with foreigners; It is hereby enacted as follows :—

1. (1) This Act may be called the Enemy Trading Act, 1915;
- (2) It extends to the whole of British India, including the Sonthal Parganas; and
- (3) It shall remain in force during the continuance of the² present war, and for a period of six months thereafter.

Short title
extent and
duration.

¹ For Statement of Objects and Reasons, see Gazette of India, 1915, Pt. V, p. 79, and for Proceedings in Council, see *ibid.*, 1915, Pt. VI, pp 462 and 502.

The Act has been extended under s 5 of the Scheduled Districts Act, 1874 (XIV of 1874) to British Baluchistan, see Gazette of India, 1916, Pt. II, p. 383.

² As to date of termination of war, see Act V of 1919, *infra*.

2. In this Act,—

Definitions. “custodian” means a custodian of enemy property appointed under this Act ;

“Enemy Trading Proclamation” means any Proclamation or Order in Council of His Majesty for the time being in force, relating to trading, commercial intercourse or other dealings with subjects of States at war with His Majesty ;

“foreigner” has the same meaning as in the ¹ Foreigners Act, 1964 ; III of 1864.

“prescribed” means prescribed by rules made under this Act.

Constitution
of the office
of custodian
of enemy
property.

3. (1) The Governor General in Council shall appoint ² so many persons, as he thinks fit, to act as custodians for the whole or any part of British India for the purpose of receiving, holding and dealing with such money as may be paid to them in pursuance of this Act

(2) Custodians shall, subject to the provisions of this Act, have such powers and duties, with respect to the money held by them in their capacity as custodians, as may be prescribed.

(3) If any question arises as to the custodian to whom any money may be paid under this Act, the question shall be determined by the Governor General in Council.

Power to pay
to custodian
certain
prohibited
payments.

4. (1) Any sum, by way of dividends, interest or share of profits, the payment of which to, or for the benefit of, any person is prohibited by or under any Enemy Trading Proclamation may, subject to the provisions of section 7, be paid by the person by whom it would have been payable, if a state of war had not existed, to the custodian to hold subject to the provisions of this Act.

(2) Where, before the commencement of this Act, any such sum has been paid into any account with a bank, or has been paid to any other person in trust, the bank or other person may pay the same to the custodian to hold as aforesaid.

(3) On such payment the bank or other person shall be exempt from all liability in respect of such payment.

Power to pay
to custodian
sums, the
receipt of
which is
prohibited
under enact-
ments relat-
ing to
foreigners.

5. Where, by or under any enactment for the time being in force relating to foreigners, any person is absolutely prohibited from carrying on, or engaging in, any trade or business, or from receiving any money, any sum payable to, or for the benefit of, such person in the way of his trade or business, or any such money may, subject to the provisions of section 7, be paid by the person by whom it is payable, to the custodian to hold subject to the provisions of this Act.

¹ Genl. Acts, Vol. I.

² For notifications under section 3, see Leg. and O. W.

6. Any person paying money to a custodian under the provisions of section 4 or section 5 shall, at the same time, furnish such particulars in regard to the payment as the custodian, subject to any rules prescribed in this behalf, may require; until such particulars have been furnished to the satisfaction of the custodian, the custodian shall not grant a receipt for such money.

7. (1) The custodian may refuse to receive any money on the ground that it is not money to which the foregoing provisions of this Act apply or, with the sanction of the Local Government, for any other reason.

(2) In the event of any question arising as to whether any money is money to which the foregoing provisions of this Act apply, the decision of the custodian on the question shall be final.

8. Where any money is paid to a custodian under the foregoing provisions of this Act, the receipt of such custodian, or any person duly authorised by him to sign receipts on his behalf for any such money, shall be a good discharge to the person paying the same, as against the person in respect of whom the money was paid to the custodian.

9. (1) The custodian shall hold and deal with any money paid to him under this Act in accordance with such directions as he may receive from the Governor General in Council.

(2) Money held by the custodian under this Act shall not save as may be otherwise prescribed, be liable to be attached or otherwise taken in execution of a decree.

(3) The custodian shall keep a register of all money held by him under this Act, which register shall be open to public inspection at such reasonable times as he may direct.

10. No suit or other proceeding shall lie against a custodian for anything done, or intended to be done, in good faith under this Act or any rule made thereunder.

11. (1) The Governor General in Council may, by notification in the Gazette of India, make rules for carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the powers and duties of custodians;
- (b) the particulars to be furnished to custodian by persons making payments to them; and
- (c) the payment, of money in the hands of the custodian in satisfaction of decrees and debts.

(3) All rules made under this section shall have effect as if enacted in this Act.

Power to extend provisions of Act to other prohibited payments

¹12. The Governor General in Council may, by notification in the Gazette of India, direct that the provisions of section 4 of this Act, enabling certain moneys to be paid to custodians, shall apply to any payments, the making of which is prohibited by or under any Enemy Trading Proclamation and which are not provided for by that section; and upon such notification, the Act shall be read and construed as if such payments had been included in section 4.

Power to extend provisions of Act to sums in the hands of public officers under enactments relating to foreigners.

13. (1) The Governor General in Council may, by order in writing, direct that any money which is in, or may come into, the hands of any public officer by or under the provisions of any enactment for the time being in force, relating to foreigners, shall be paid by such officer to such custodian as may be specified in the order.

(2) Any money paid to a custodian, in accordance with the provisions of sub-section (1), shall be deemed to be money paid to the custodian in pursuance of this Act, and the provisions of this Act shall apply accordingly.

Power to prohibit by order payments to certain foreigners.

¹14. (1) The Governor General in Council may, by order in writing, prohibit or restrict any person or class of persons from carrying on trade or business with, or transferring any property, moveable or immoveable, to, any person or class of persons in respect of whom any restriction has been imposed by or under any enactment for the time being in force relating to foreigners.

(2) Any person who contravenes or attempts to contravene the provisions of any order made under sub-section (1) shall be punishable with the punishment provided for an offence under section 4 of the ²Foreigners Ordinance, 1914, III of 1914.

(3) The Governor General in Council may, by notification in the Gazette of India, delegate to any Local Government, subject to such restrictions and conditions as he thinks fit, all or any of the powers conferred upon him by this section.

Amendment of section 3 of Ordinance VI of 1914 as re-enacted by Act I of 1915.

15. Section 3 of the ³Commercial Intercourse with Enemies Ordinance, VI of 1914, 1914, as in force by virtue of section 2 of the ⁴Emergency Legislation Continuance Act, 1915, shall be read and construed as if after the word "contravenes" the words "attempts, or directly or indirectly offers, proposes or agrees, or has, since the 14th day of October, 1914, attempted or directly or indirectly offered, proposed or agreed, to do any act in contravention of," were inserted. I of 1915.

¹ For notifications under this section, see Leg and O. W.

² Page *infra*.

³ Page *infra*.

⁴ Page *supra*.

ACT No. XVI of 1915.¹

[1st October, 1915.]

An Act to establish and incorporate a teaching and residential Hindu University at Benares.

WHEREAS it is expedient to establish and incorporate a teaching and residential Hindu University at Benares, and to dissolve the Hindu University Society, a Society registered under the ² Societies Registration Act, 1860, and to transfer to, and vest in, the said University all property and rights now vested in the said Society; It is hereby enacted as follows :—

1. (1) This Act may be called the Benares Hindu University Act, 1915. Short title and commencement.

(2) It shall come into force on such ³ date as the Governor General in Council may, by notification in the Gazette of India, direct.

2. In this Act, unless there is anything repugnant in the subject or Definition. context,—

(a) " College " means any college or institution maintained or admitted to privileges by the University ;

(b) " Council " means the University Council ;

(c) " Court " means the University Court ;

(d) " Faculty " means a Faculty of the University ;

(e) " Regulations " means the Regulations of the University for the time being in force ;

(f) " Senate " means the Senate of the University ;

(g) " Statutes " means the Statutes of the University for the time being in force ; and

(h) " University " means the Benares Hindu University.

3. (1) The First Chancellor, Pro-Chancellor and Vice-Chancellor who shall be the persons specified in this behalf by a notification of the Governor General in Council in the Gazette of India, and the persons indicated in Schedule I as members of the Court and the Senate, and all persons who may hereafter become, or be appointed as, such officers or members, so long as they continue to hold such office or membership, shall be constituted a body corporate by the name of the Benares Hindu University. Incorporation.

(2) The University shall have perpetual succession and a common Seal, and shall sue, and be sued, by the name first aforesaid.

(3) The University shall be deemed to have been incorporated for the purposes, among others, of making provision for imparting education, literary,

¹ For Statement of Objects and Reasons, see Gazette of India, 1915, Pt. V, p 41, for Report of Select Committee, see *ibid*, 1915, Pt. V, p. 61, and for Proceedings in Council, see *ibid*, 1915, Pt. VI, pp. 291, 441 and 503.

² Genl. Acts, Vol. I

³ The 1st April, 1916, see Gazette of India, 1916, Pt. I, p 352.

artistic and scientific, as well as agricultural, technical, commercial and professional, of furthering the prosecution of original research, and of giving instruction in Hindu theology and religion, and of promoting the study of literature, art, philosophy, history, medicine and science, and of imparting physical and moral training.

University open to all classes, castes and creeds save as regards religious instruction.

4. (1) The University shall, subject to the Regulations, be open to persons of all classes, castes and creeds, but provision shall be made for religious instruction and examination in Hindu religion only.

(2) The Court shall have power to make Statutes providing that instruction in Hindu religion shall be compulsory in the case of Hindu students, and shall also have power to make special arrangements for the religious instruction of Jain or Sikh students from funds provided for this purpose.

Lord Rector, Patrons and Vice-Patrons.

5. The Governor General of India for the time being shall be the Lord Rector of the University; and such persons, as may be specified in the Statutes, shall be the Patrons and Vice-Patrons thereof

Visitor.

6. (1) The Lieutenant-Governor for the time being of the United Provinces of Agra and Oudh shall be the Visitor of the University.

(2) The Visitor shall have the right of inspecting the University and its Colleges generally, and for the purpose of seeing that the proceedings of the University are in conformity with this Act and the Statutes and Regulations. The Visitor may, by order in writing, annul any such proceedings which is not in conformity with this Act and the Statutes and Regulations:

Provided that, before making any such order, he shall call upon the University to show cause why such an order should not be made, and if any cause is shown within a reasonable time, shall consider the same.

Authorities and officers of the University.

7. The following shall be the authorities and officers of the University:—

- I.—The Chancellor,
- II.—The Pro-Chancellor,
- III.—The Vice-Chancellor,
- IV.—The Pro-Vice-Chancellor,
- V.—The Court,
- VI.—The Council,
- VII.—The Senate,
- VIII.—The Syndicate,
- IX.—The Faculties and their Deans,
- X.—The Registrar,
- XI.—The Treasurer, and
- XII.—Such other authorities and officers as may be provided for by the Statutes.

8. Subject to the provisions of this Act, the powers and duties of the officers of the University, the term for which they shall hold office, and the filling up of casual vacancies in such offices, shall be provided for by the Statutes.

Powers and duties of officers, terms of office and filling of casual vacancies.
The Court.

9. (1) The Court shall be the supreme governing body of the University in administrative matters, and shall have power to review the acts of the Senate (save when the Senate has acted in accordance with powers conferred on it under this Act, the Statutes or the Regulations), and shall exercise all the powers of the University not otherwise provided for by this Act or the Statutes.

(2) Save in the case of the first Court, no person not being a Hindu shall become, or be appointed, a member of the Court.

10. (1) The Council shall be the executive body of the Court, and shall, in addition to *ex-officio* members, consist of not more than thirty elected members :

Provided that five members, other than *ex-officio* members, shall be members of the Senate elected by the Senate.

(2) The Council shall exercise such powers and perform such duties as may be vested in it by the Statutes.

11. (1) The Senate shall be the academic body of the University and, subject to the Act, the Statutes and Regulations, shall have entire charge of the organization of instruction in the University and the Colleges, the courses of study and the examination and discipline of students and the conferment of ordinary and honorary degrees.

(2) The Senate shall ordinarily consist of not less than fifty members.

12. (1) The Syndicate shall be the executive body of the Senate, and shall consist of seventeen members :

The Syndicate.

Provided that ten at least of the members of the Syndicate, other than *ex-officio* members, shall be University Professors or Principals or Professors of Colleges.

(2) The Syndicate shall exercise such powers and perform such duties as may be vested in it by the Statutes.

13. (1) The accounts of the University shall, once at least in every year and at intervals of not more than fifteen months, be audited by auditors appointed by the Court.

Audit of accounts.

Provided that no person shall be appointed an auditor in the exercise of this power, unless he is qualified in accordance with the provisions of the VII of 1913. ¹Indian Companies Act, 1913, to audit accounts of companies under that Act.

¹ Genl. Acts, Vol. VII.

(2) The accounts, when audited, shall be published in the Gazette of India, and a copy of the accounts, together with the auditor's reports, shall be submitted to the Visitor.

Permanent
reserve to
cover recur-
ring charges.

14. The University shall invest, and keep invested, in securities in which trust funds may be invested, in accordance with the provisions of the law relating to trusts in British India, a sum of fifty lakhs of rupees as a permanent endowment to meet the recurring charges of the University other than charges in respect of scholarships, prizes and rewards :

Provided that—

(1) any Government securities, as defined by the ¹Indian Securities Act, XIII of 1886, which may be held by the University shall, for the purpose of this section, be reckoned at their face-value ; and ^{1886.}

(2) the aforesaid sum of fifty lakhs shall be reduced by such sum as, at the commencement of this Act, the Governor General in Council shall, by order in writing, declare to be the total capitalised value, for the purposes of this section —

(a) of all permanent recurring grants of money which have been made to the University by any Indian Prince or Chief; and

(b) of the total income accruing from immoveable property which has been transferred to the University.

Maintenance
and admis-
sion to privi-
leges of
colleges.

15. (1) The Central Hindu College, Benares, shall, from such ²date as the Governor General in Council may, by notification in the Gazette of India, appoint in this behalf, be deemed to be a College maintained by the University, and the University may found and maintain other colleges and institutions in Benares for the purposes of carrying out instruction and research.

(2) With the approval of the Senate and the sanction of the Visitor, and subject to the Statutes and Regulations the University may admit colleges and institutions in Benares to such privileges of the University, subject to such conditions, as it thinks fit.

Recognition
of degrees.

16. The degrees, diplomas, certificates and other academic distinctions granted by the University, shall be recognized by the Government to the same extent and in the same manner as the corresponding degrees, diplomas, certificates and other academic distinctions granted by any other University incorporated by an Act of the Governor General in Council.

Statutes.

17. (1) Subject to the provisions of this Act, the Statutes may provide for any or all of the following matters, namely :—

(a) the constitution, powers and duties of the Court, the Council, the Senate, the Syndicate, and such other bodies, as it may be deemed necessary to constitute from time to time ;

¹ Gaul. Acts, Vol. III.

² The 1st October 1917, see Gazette of India, 1917, Pt. I, p. 1641.

- (b) the election and continuance in office of the members of the said bodies, including the continuance in office of the first members, and the filling of vacancies of members and all other matters relative to those bodies for which it may be necessary or desirable to provide ;
- (c) the appointment, powers and duties of the necessary officers of the University ;
- (d) for the instruction of Hindu students in Hindu religion ; and
- (e) all other matters relating to the administration of the University.
- (2) The first Statutes shall be those set out in Schedule I.
- (3) The Court may, from time to time, make new or additional Statutes or may amend or repeal the Statutes.

(4) The Council shall have power to draft and propose to the Court Statutes to be made by the Court, and it shall be the duty of the Court to consider the same.

(5) All new Statutes or additions to the Statutes or amendments or repeals to Statutes other than Statutes providing for the instruction of Hindu students in Hindu religion, shall require the previous approval of the Visitor, who may sanction, disallow, or remit for further consideration :

Provided that no Statute making a change in the constitution of the Court, the Council, the Senate or the Syndicate, as provided for in the first Statutes, shall be made without the previous sanction of the Governor General in Council.

18. (1) Subject to the provisions of this Act and the Statutes, the regula- Regulations- tions may provide for any or all of the following matters, namely :—

- (a) the payment of fees to the University and their amount ;
- (b) the admission of students to the University and their examination ;
- (c) the tenure of office and terms and manner of appointment and the duties of the examiners and examining boards ;
- (d) the discipline to be enforced in regard to the graduates and under-graduates ;
- (e) the degrees, diplomas, certificates and other academic distinctions to be awarded by the University, the qualifications for the same, and the means to be taken relating to the granting and obtaining of the same :
- (f) the withdrawal of degrees, diplomas, certificates and other academic distinctions ;
- (g) the removal from membership of the University of graduates and under-graduates ; and
- (h) all such other subjects as are required or authorised by the Act or Statutes to be prescribed by means of Regulations.

(2) The first Regulations shall be framed as directed by the Governor General in Council, and shall receive his previous approval.

(3) The Senate, from time to time, may make new or additional Regulations, or amend or repeal Regulations.

(4) The Syndicate shall have power to draft and propose to the Senate Regulations to be made by the Senate, and it shall be the duty of the Senate to consider the same.

(5) All new Regulations or additions to the Regulations, or amendments or repeals to Regulations, shall require the previous approval of the Visitor, who may sanction, disallow or remit for further consideration :

Provided that no regulation making a change in the first Regulations as to the admission of students to the University, shall be made without the previous sanction of the Governor General in Council.

Emergency
powers of
the Governor
General in
Council.

19. (1) If, at any time, the Governor General in Council is of opinion that special reasons exist which make the removal of any member of the teaching staff desirable in the interest of the University, or that, as a special measure, the appointment of a certain examiner or examiners to report to him is desirable to maintain the standard of University examinations, or that the scale of staff of the University is inadequate, or that in any other respect the affairs of the University are not managed in the furtherance of the objects and purposes of the University or in accordance with this Act and the Statutes and Regulations, he may indicate to the Council any matter in regard to which he desires explanation, and call upon that body to offer such explanation as it may desire to offer, with any proposals which it may desire to make, within such time as he may prescribe.

(2) If the Council fails to offer any explanation within the time prescribed or offers an explanation or makes proposals which, in the opinion of the Governor General in Council, is or are unsatisfactory, the Governor General in Council may issue such instructions, as appear to him to be necessary and desirable in the circumstances of the case, and the Court shall give effect to such instructions.

Dissolution
and transfer
of property
of the
Hindu
University
Society.

20. (1) From the commencement of this Act, the Hindu University Society shall be dissolved, and all property, moveable and immoveable, and all rights, powers and privileges of the Hindu University Society which, immediately before the commencement of this Act, belonged to, or were vested in, the said Society, shall vest in the University, and shall be applied to the objects and purposes for which the University is incorporated.

(2) From the commencement of this Act, all debts and liabilities of the said Society shall be transferred and attached to the University, and shall thereafter be discharged and satisfied by the University.

(3) Any will, deed or other document, whether made or executed before or after the commencement of this Act, which contains any bequest, gift or trust in favour of the Central Hindu College or the said Society shall, on the commencement of this Act, be construed as if the University were therein named, instead of the said College or Society.

SCHEDULE I.

FIRST STATUTES OF THE UNIVERSITY.

[See sections 3 and 17 (2)]

1. (1) In these Statutes—

“The Act” means the Benares Hindu University Act, 1915.

Definitions.

(2) All words and expressions used herein and defined in the Act shall be deemed to have the meanings respectively attributed to them by the Act.

2. (1) The following persons shall be members of the University, namely :—

Membership
of the Uni-
versity.

(i) The officers of the University.

(ii) The members of the University authorities.

(iii) The members of the teaching staff.

(iv) The graduates.

(v) The under-graduates.

(2) Membership of the University shall continue so long only as one at least of the qualifications above enumerated shall continue to be possessed by the individual member.

3. (1) The following persons shall be the Patrons of the University, namely :—

Patrons and
Vice-
Patrons.

(i) all Heads of local administrations in British India, other than the Lieutenant-Governor of the United Provinces of Agra and Oudh ;

(ii) such Indian Princes and Chiefs as the Lord Rector may, of his own motion, or on the recommendation of the Court, from time to time, appoint.

(2) The Lord Rector may, on his own motion, or on the recommendation of the Court, appoint such persons, as he may think fit, to be Vice-Patrons of the University.

4. (1) The successors to the first Chancellor shall be elected by the Court.

The Chan-
cellor.

(2) The Chancellor shall hold office for three years.

5. (1) The Chancellor shall, by virtue of his office, be the head of the University.

Powers of
the Chan-
cellor.

(2) The Chancellor shall, if present, preside at the Convocation of the University for conferring degrees, and at all other meetings of the Court.

(3) The Chancellor may, on the recommendation of the Senate, appoint Rectors, being persons of eminent position or attainment.

The Pro-Chancellor.

6. (1) The successors to the first Pro-Chancellor shall be elected by the Court from among its own members.

(2) The Pro-Chancellor shall hold office for one year.

(3) Casual vacancies in the office of the Pro-Chancellor shall be filled up by the Chancellor on the recommendation of the Council. The person so appointed shall hold office till the next annual election.

Powers of the Pro-Chancellor.

7. The Pro-Chancellor may, in the absence of the Chancellor or pending a vacancy in the office of Chancellor, exercise the functions of the Chancellor, except the conferring of degrees, and preside at any meetings of the Court.

The Vice-Chancellor.

8. (1) The successors to the first Vice-Chancellor shall be elected by the Court from among its own members. Such appointment shall be subject to approval by the Visitor.

(2) The Vice-Chancellor shall hold office for three years.

(3) Casual vacancies in the office of Vice-Chancellor shall be filled up by election by the Court, subject to approval by the Visitor. Until the election of a new Vice-Chancellor, the Pro-Vice-Chancellor shall perform the duties of the Vice-Chancellor.

Powers of the Vice-Chancellor.

9. (1) The Vice-Chancellor shall take rank in the University next to the Chancellor and the Pro-Chancellor, and shall be *ex-officio* Chairman of the Council, the Senate and the Syndicate. He shall be the principal Executive and Academic Officer of the University, and shall, in the absence of the Chancellor, preside at the convocation and confer degrees.

(2) It shall be the duty of the Vice-Chancellor to see that the Act, the Statutes and the Regulations are faithfully observed.

(3) The Vice-Chancellor shall have power to convene meetings of the Court, the Council, the Senate and the Syndicate, and to perform all such acts as may be necessary to carry out or further the provisions of the Act, the Statutes and the Regulations.

(4) If any emergency arises which, in the opinion of the Vice-Chancellor requires that immediate action should be taken, the Vice-Chancellor shall take such action as he deems necessary, and shall report the fact to the authority which in the ordinary course would have dealt with the matter.

The Pro-Vice-Chancellor.

10. (1) The Pro-Vice-Chancellor shall be elected by the Court. The appointment shall be subject to approval by the Visitor.

(2) He shall hold office for such period and under such conditions as shall, from time to time, be determined by the Court.

(3) Casual vacancies in the office of the Pro-Vice-Chancellor shall be filled up by the Vice-Chancellor with the approval of the Chancellor and the Visitor. The person so appointed shall hold office till the next meeting of the Court.

11. The Pro-Vice-Chancellor shall be *ex-officio* Secretary of the Court and the Council. He shall be the executive assistant of the Vice-Chancellor in all matters affecting the discipline of the graduates and under-graduates. Powers of the Pro-Vice-Chancellor.

12. (1) The Registrar shall be a whole-time paid officer of the University, and shall be appointed by the Council. He shall be *ex-officio* Secretary of the Senate and the Syndicate. He shall hold office for a term of five years. The Registrar.

(2) The Registrar may be a member of the Senate, but shall not be a member of the Syndicate.

(3) It shall be the duty of the Registrar,—

- (a) to be the custodian of the records, common seal and such other property of the University as the Syndicate shall commit to his charge ;
- (b) to act as Secretary to the Senate and the Syndicate, and to attend, as far as possible, all meetings of the Senate, Syndicate, Faculties, and any Committees appointed by the Senate, the Syndicate, or the Faculties, and to keep minutes thereof ;
- (c) to conduct the official correspondence of the Senate and the Syndicate ;
- (d) to issue all notices convening meetings of the Senate, Syndicate, Faculties, Boards of Studies, Boards of Examiners, and of any Committees appointed by the Senate, the Syndicate, the Faculties or any of the Boards ;
- (e) to arrange for, and superintend, the examinations of the University at Benares ; and
- (f) to perform such other work as may, from time to time, be prescribed by the Syndicate.

13. (1) The Treasurer shall be appointed by the Court. He shall hold office for the term of one year. The Treasurer.

(2) Casual vacancies in the office of Treasurer shall be filled up by election by the Council. The person so appointed shall hold office for the unexpired period of office of the person in whose place he is elected.

(3) The receipt of the Treasurer for any money payable to the University shall be sufficient discharge for the same.

14. (1) Subject to the provisions of the Act, and save as hereinafter provided in this Statute, the Court shall consist of the following persons, namely :—

Class I.—Ex-officio Members.

The Chancellor, the Pro-Chancellor, the Vice-Chancellor and the Pro-Vice-Chancellor for the time being.

Class II.—Donors and their representatives.

- (a) Every Indian Prince or Chief, contributing a donation of three lakhs of rupees or upwards, or transferring property of the like value, shall be a life-member from the date of the receipt of the donation or of the transfer, and, after his decease, his successor for the time being holding his position as such Prince or Chief, shall be a life-member.
- (b) Every person contributing to the University a donation of one lakh of rupees or upwards, or transferring property of the like value, shall be a life-member from the date of the receipt of the donation or of the transfer
- (c) Every person contributing to the University a donation of Rs10,000 or upwards, or transferring property of the like value, shall be a member for a period of ten years from the date of the receipt of his donation or of the transfer.
- (d) Every person who is a life-member in virtue of clause (a) may, from time to time, nominate one member. The member so nominated shall continue in office for such period as the nominator may specify to the Registrar, provided that his membership shall determine on the death of the nominator.
- (e) Every person who is a life-member in virtue of clause (b) may, by notice in writing to the Registrar, nominate one member to hold office for a period of five years.
- (f) Every donor who makes a bequest of Rs10,000 or upwards, or of property of the like value may, by or under his will, nominate one person who shall be a member for a period of five years from the receipt of the bequest.
- (g) Every Indian Prince or Chief who makes a permanent annual grant of money to the University shall, subject to the provisions of clause (f), have the same rights as to membership of, and representation on, the Court as if he had been a donor of such sum as represents the capital value ascertained at a rate of interest of 3½ per cent. of such annual grant.
- (h) Every other grantor to the University of any annual grant of money, the payment of which is secured by mortgage of immoveable property affording sufficient security for such grant within the provisions of the *Explanation* to section 66 of the ¹Transfer of Property Act, 1882, and effected by duly executed instrument in IV of 1882. a form approved by the Council, shall, subject to the provisions of

¹ Genl. Acts, Vol. III.

clause (j), have the same rights as to membership of, and representation on, the Court as if he had been a donor of a sum calculated in the manner prescribed in clause (g).

- (i) The amounts of donations specified in clauses (a), (b), (c), (f) and in Class III (b) may, for the purpose of qualifying the donors within those provisions, be made up partly of money or of capitalised grants as provided in clauses (g) and (h), or of property, or partly of any two or more of these.
- (j) When an annual grant is not fully paid up or falls in arrears, the grantor shall not be entitled to exercise any of the privileges conferred on him by any of the foregoing clauses of this Statute, unless and until the said arrears are paid up.

Class III.—Elected Members.

- (a) Ten persons to be elected by the registered graduates of the University from such date as the Court may fix.
- (b) Thirty persons to be elected by registered donors of Rs500 or upwards :
Provided that, whenever the number of such donors falls below fifty, there shall be no election until the number of such donors again attains or exceeds fifty.
- (c) Ten persons to be elected by the Senate.
- (d) Fifteen representatives of Hindu religion and Sanskrit learning to be elected by the Court.
- (e) Ten persons to be elected by the Court to represent Jain and Sikh communities.
- (f) Ten persons to be elected by the Court to represent the learned professions.
- (g) Such other persons, not exceeding twenty in number, as may be elected by the Court.

(2) The foregoing provisions of this Statute shall, as far as may be, be applicable to the first Court :

Provided that, in the case of the first Court, the ten persons specified in group (c) of Class III shall be appointed by the Vice-Chancellor, with the approval of the Governor General in Council.

(3) When any electoral body, entitled to elect a member or members, fails to do so within the time prescribed by the Court, the Court may appoint any qualified person of the class from which such electoral body was entitled to elect.

(4) Save when otherwise expressly provided, members shall hold office for five years :

Provided that, as nearly as may be, one-fifth of the total number of the members of the first Court in each of the groups of Class III shall retire by ballot at the end of each year for the first four years.

(5) All casual vacancies among the appointed or elected members shall be filled, as soon as conveniently may be, by the person or body who appointed or elected the member whose place has become vacant, and the person appointed or elected to a casual vacancy shall be a member for the residue of the term for which the person, in whose place he is appointed or elected, was a member.

Exercise of
control by
the Court.

15. The Court shall exercise control over the Senate through the Council and not otherwise, and over the Faculties through the Council and Senate and not otherwise, and over the Council by means of Statutes and Resolutions passed at a meeting of the Court and not otherwise.

Meetings
of the Court.

16. (1) As soon as may be after the commencement of the Act, the first Court shall assemble at such place and time, as the Chancellor may direct, in order to make the necessary appointments and elections for the purpose of the Act and Statutes.

(2) An annual meeting of the Court shall be held during the month of October in each year, unless some other month be fixed by Resolution at a Previous annual general meeting, on such day and at such hour as shall be appointed by the Council. And at such yearly meeting, a report of the proceedings of the Council and of the University, together with a statement of the receipts and expenditure and the balance-sheet as audited, shall be presented by the Council to such meeting, and any vacancies among the officers of the University or among the members of the Court or Council which ought to be filled up by the Court shall be filled up.

(3) A copy of the statement of receipts and expenditure and of the balance-sheet referred to in clause (2) shall be sent to every member of the Court at least seven days before the date of the annual meeting, and shall be open to the inspection of all members of the Court and Senate at the office of the University during the year following such annual meeting, at such reasonable hours and under such conditions as the Council may determine.

(4) Twenty members of the Court shall form a quorum.

(5) Special general meetings of the Court may be convened by the Council at any time.

The Council.

17. (1) The Council shall consist of the following persons, namely :—

- (i) The Vice-Chancellor and the Pro-Vice-Chancellor for the time being.
- (ii) Not more than thirty elected members, of whom five shall be members of the Senate elected by the Senate, and the remainder members of the Court elected by the Court.

(2) Not less than five of the members to be elected by the Court shall be residents of places outside the United Provinces of Agra and Oudh.

(3) At the first election of members of the Council by the Court, it shall proceed in the first place to elect twenty members. The Court shall, as soon as the result of the election is declared, proceed to determine the province, or provinces or States, from among the residents of which the remaining five members are to be elected, and assign to each province or State the number of member or members to be elected.

(4) At each subsequent election, as nearly as may be, four-fifths of the vacancies shall be first filled up. The remaining one-fifth of the vacancies shall then be filled up to secure representation of provinces and States, on the same lines *mutatis mutandis* as provided in sub-section (3).

(5) The elected members of the Council shall hold office for the term of three years :

Provided that, at the first annual meeting of the Court, and at the second annual meeting of the Court, as nearly as may be, one-third of the first elected members shall retire by ballot.

(6) All casual vacancies among elected members may be filled up by the body which elected the member whose place has become vacant.

(7) Seven members of the Council shall form a quorum.

18. (1) The Council shall, subject to the control of the Court, have the management and administration of the whole revenue and property of the University and the conduct of all administrative affairs of the University not otherwise provided for.

Powers of the Council.

(2) Subject to the Act, the Statutes and any Regulations made in pursuance thereof, the Council shall, in addition to all other powers vested in it, have the following powers, namely :—

- (i) To appoint, from time to time, Principals of Colleges and such University Professors, Professors, Assistant Professors, Readers, Lecturers and other members of the teaching staff, as may be necessary, on the recommendation of the Board of Appointments.
- (ii) In the case of other appointments, to delegate, subject to the general control of the Council, the power of appointment to such authority or authorities as the Council may, from time to time, by Resolution, either generally or specially direct.
- (iii) To manage and regulate the finances, accounts, investments, property, business and all other administrative affairs of the University and, for that purpose, to appoint such agents as it may think fit.

- (iv) To invest any moneys belonging to the University, including any unapplied income in such stocks, funds, shares, or securities, as it shall, from time to time, think fit, or in the purchase of immoveable property in India, with the like power of varying such investments from time to time.
- (v) To transfer or accept transfers of any moveable or immoveable property on behalf of the University
- (vi) To provide the buildings, premises, furniture, and apparatus, and other means needed for carrying on the work of the University.
- (vii) To enter into, vary, carry out, and cancel contracts on behalf of the University.
- (viii) To entertain, adjudicate upon, and, if thought fit, redress any grievances of the officers of the University the Professors, the Teaching Staff, the graduates, under-graduates and the University servants, who may, for any reason, feel aggrieved, otherwise than by an act of the Court :

Provided that nothing in this provision shall be deemed to confer on the Council any power to interfere in any matter of discipline in regard to graduates and under-graduates.

- (ix) To maintain a register of donors to the University.
- (x) To select a Seal for the University, and provide for the custody and use of the Seal.

The Senate. 19. (I) The Senate shall, save as hereinafter provided in this Statute, ordinarily consist of not less than fifty members, of whom not less than three-fourths shall be Hindus, and shall include the following persons, namely :—

Class I.—Ex-officio Members.

- (a) The Chancellor, the Pro-Chancellor, the Vice-Chancellor and the Pro-Vice-Chancellor for the time being.
- (b) The University Professors.
- (c) The Principals or heads of Colleges.

Class II.—Elected Members.

- (a) Five members to be elected by the Court.
- (b) Five members to be elected by the registered graduates of the University from such date as the Court may fix.
- (c) Five representatives of Hindu religion and Sanskrit learning to be elected by the Senate.
- (d) Ten representatives to be elected by the Senate from persons engaged in the teaching work of the University or its Colleges

- (e) Should the Vice-Chancellor declare that there is a deficiency in the number of members required in any Faculty or Faculties, then five or less persons elected by the Senate, eminent in the subject or subjects of that Faculty or those Faculties.

Class III—Nominated Members.

- (a) Five members to be nominated by the Visitor.
- (2) The foregoing provisions of this Statute shall, as far as may be, be applicable to the first Senate.
- (3) The elected and nominated members of the Senate shall hold office for five years :

Provided that, as nearly as may be one-fifth of the total number of the members of the first Senate shown in each of the groups of Class II and of those shown in Class III shall retire by ballot at the end of each year for the first four years.

- (4) All casual vacancies among elected members may be filled up by the body which elected the member whose place has become vacant.

- (5) Fifteen members of the Senate shall form a quorum.

20. (1) The Senate shall be the academic body of the University and subject to the Act, the Statutes and Regulations of the University, shall have entire charge of the organization of instruction, the courses of study and the examination and discipline of students (save so far as matters of discipline rest with the Pro-Vice-Chancellor and the heads of colleges) and the conferment of ordinary and honorary degrees. ^{Powers of the Senate.}

(2) Subject to the Act and the Statutes and any Regulations made in pursuance thereof, the Senate shall, in addition to all other powers vested in it, have the following powers, namely :—

- (i) To report on any matter referred to or delegated to them by the Court or the Council.
- (ii) To discuss, and declare an opinion on, any matter whatsoever relating to the University.
- (iii) To make recommendations to the Council or to the Board of Appointments as to the removal of any Professor or Teacher of the University or of its Colleges, or as to the appointment of additional Professors or Teachers for the University or its Colleges.
- (iv) To formulate and modify or revise schemes for the organization of Faculties, and to assign to such Faculties their respective subjects and also to report to the Council as to the expediency of the abolition, combination, or sub-division of any Faculty.

- (v) To fix subject to any conditions made by the Founders which are accepted by the Court, the times and mode and conditions of competition for fellowships, scholarships, and other prizes, and to award the same.
- (vi) To promote research within the University and to require, from time to time, reports on such research.
- (vii) To maintain a register of graduates.

The Syndi-
cate.

21. (1) The Syndicate shall be the executive body of the Senate, and shall consist of the Vice-Chancellor, the Pro-Vice-Chancellor and fifteen persons elected by the Senate, of whom not less than ten shall be University Professors or Principals or Professors of Colleges.

(2) The elected members of the Syndicate shall hold office for three years.

Provided that, as nearly as may be, one-third of the elected members of the first Syndicate shall retire by ballot at the end of each year for the first two years.

(3) All casual vacancies among elected members may be filled up by the Senate.

(4) Five members of the Syndicate shall be a quorum.

Duties of the
Syndicate.

22. It shall be the duty of the Syndicate, subject to the revision and control of the Senate,—

- (i) to order examinations in conformity with the Regulations, and to fix dates for holding them ;
- (ii) to appoint Examiners, and, if necessary, to remove them, and, subject to the approval of the Council, to fix their fees, emoluments and travelling and other allowances, and to appoint Boards of Examiners and Moderators ,
- (iii) to appoint, whenever necessary, Inspectors or Boards of Inspectors for inspecting Colleges applying for admission to the privileges of the University ;
- (iv) to declare the results of the various University Examinations, and to recommend for degrees, honours, diplomas, licenses, titles and marks of honour ;
- (v) to award stipends, scholarships, medals, prizes and other rewards, in conformity with the Regulations and the conditions prescribed for their award ;
- (vi) to consider and make such reports, or recommend such action, as may be deemed necessary, on proposals or motions brought forward by the members of the Senate and Faculties, for consideration by the Senate ;

- (vii) to publish lists of prescribed, or recommended, text books and to publish statements of the prescribed courses of study ;
- (viii) to prepare such forms and registers as are, from time to time, prescribed by the Regulations ; and generally,
- (ix) to perform all such duties and to do all such acts, as may be necessary, for the proper carrying out of the provisions of the Act, and the Statutes and Regulations or the Resolutions of the Senate.

23. (1) The University shall include the Faculties of—(1) Oriental ^{The Facul-} learning, (2) Theology, (3) Arts, (4) Science, Pure and Applied, (5) Law, ties. and, as soon as the Visitor is satisfied that sufficient funds are available for the purpose, of (6) Technology, (7) Commerce, (8) Medicine and Surgery, (9) Agriculture, and other Faculties.

(2) The Senate shall annually assign its members to the different Faculties.

(3) The method of assignment of members to the Faculties, the meetings of the Faculties, and their power of co-opting additional members shall be provided for by Regulations :

Provided that the members assigned to the Faculty of Theology shall all be Hindus.

24. (1) The Faculties shall have such powers, and shall perform such ^{Powers of} duties, as may be assigned to them by the Statutes and the Regulations, and ^{Faculties.} shall, from time to time, appoint such and so many Boards of Studies, in different branches of knowledge as may be prescribed by the Regulations. They shall also consider and make such recommendations to the Senate on any question pertaining to their respective sphere of work as may appear to them necessary, or on any matter referred to them by the Senate.

(2) Five members, in the case of the Faculty of Arts, and three members, in the case of the other Faculties, shall constitute a quorum.

25. Convocations of the University for the conferring of degrees, or for ^{Convoca-} other purposes, shall be held in a manner to be prescribed by Regulations. tions.

26. The Court, Council, Senate, Syndicate and the Faculties may, from ^{Committees.} time to time, appoint such and so many standing and special Committees or Boards as may seem to them fit, and may, if they think fit, place on them persons who are not members of the appointing bodies. Such Committees may deal with any subject delegated to them, subject to subsequent confirmation by the appointing body.

27. (1) The Board of Appointments shall consist of—

Board of Ap-
pointments.

- (i) The Vice-Chancellor.
- (ii) The Pro-Vice-Chancellor.
- (iii) Two members to be elected by the Court.

- (iv) Two members to be elected by the Council.
- (v) Two members to be elected by the Senate.
- (vi) Two members to be elected by the Syndicate.

(2) The elected members shall hold office for the term of two years. One member from each electing body, to be determined by ballot, shall retire at the end of the first year

(3) The Vice-Chancellor shall preside at the meetings of this Board or, in his absence, the Pro-Vice-Chancellor.

(4) The meetings of the Board shall be convened by the Vice-Chancellor or Pro-Vice-Chancellor, or, when so directed by the Syndicate, by the Registrar

(5) The Board shall consider and submit recommendations as to all appointments referred to it.

Acts during
vacancies.

28. No Act or Resolution of the Court, the Council, the Senate, the Syndicate or the Faculties or any other authority shall be invalid by reason only of any vacancy in the body doing or passing it, or by reason of any want of qualification by, or invalidity in, the election or appointment of any *de facto* member of the body, whether present or absent

Elected chair-
man to pre-
side where no
provision
made by the
Statute.

29. Where, by the Statutes or Regulations, no provision is made for a president or chairman to preside over a meeting of any University authority, Board or Committee, or when the president or chairman so provided for is absent, the members present shall elect one of their number to preside at the meeting.

Re-appoint-
ment and re-
election.

30. Every officer of the University and every member of any University authority, whose term of office or of membership has expired, shall be eligible for re-appointment or re-election, as the case may be.

Resignation.

31. Any member of the Court, the Council, the Senate or the Syndicate or any other University authority may resign by letter addressed to the Secretary in the case of the Court, and to the Registrar in all other cases.

Removal.

32. A member of the Court or the Senate may be removed from office on conviction by a Court of law of what, in the opinion of the Court or the Senate, as the case may be, is a serious offence involving moral delinquency :

Provided that a Resolution for the removal of any such member is approved by not less than two-thirds of the members present at the meeting of the Court or the Senate, as the case may be, at which such a Resolution is proposed :

And provided further that such a Resolution is confirmed by a like majority at a subsequent meeting of the Court or Senate, as the case may be.

ACT No. I of 1916.¹

[15th February, 1916.]

An Act further to amend the Indian Trusts Act, 1882.

II of 1882. WHEREAS it is expedient further to amend the Indian Trusts Act, 1882; It is hereby enacted as follows:—

1. This Act may be called the Indian Trusts (Amendment) Act, 1916. Short title.
- II of 1882. 2. In section 20 of the Indian Trusts Act, 1882 (hereinafter called the said Act), the following amendments shall be made, namely:— Amendment of section 20 of Act II of 1882.
- (i) To clause (b), the following proviso shall be added, namely:—

“Provided that, after the fifteenth day of February, 1916, no money shall be invested in any such annuity being a terminable annuity unless a sinking fund has been established in connection with such annuity; but nothing in this proviso shall apply to investments made before the date aforesaid”

(ii) After clause (b), the following new clause shall be inserted, namely:—

“(bb) in India three and a half per cent. stock, India three per cent. stock, India two and a half per cent. stock or any other capital stock which may at any time hereafter be issued by the Secretary of State for India in Council under the authority of an Act of Parliament and charged on the revenues of India;”

(iii) In clause (c) after the word “Council” the words “or by the Government of India” shall be added.

3. After section 20 of the said Act, the following section shall be inserted, namely:—

“20A. (1) A trustee may invest in any of the securities mentioned or referred to in section 20, notwithstanding that the same may be redeemable and that the price exceeds the redemption value: Insertion of new section 20A in Act II of 1882.

Provided that a trustee may not purchase at a price exceeding its redemption value any security mentioned or referred to in clauses (c) and (d) of section 20 which is liable to be redeemed within fifteen years of the date of purchase at par or at some other fixed rate, or purchase any such security as is mentioned or referred to in the said clauses which is liable to be redeemed at par or at some other fixed rate at a price exceeding fifteen per centum above par or such other fixed rate. Power to purchase redeemable stock at a premium.

(2) A trustee may retain until redemption any redeemable stock, fund or security which may have been purchased in accordance with this section.”

¹ For Statement of Objects and Reasons, see Gazette of India, 1915, Pt. V, p. 44, and for Proceedings in Council, see *ibid*, 1915, Pt. VI, p. 457, and *ibid*, 1916, Pt. VI, p. 3.

² Genl. Acts, Vol. III.

ACT No. II OF 1916.¹

[15th February, 1916.]

An Act to amend the Defence of India (Criminal Law Amendment) Act, 1915.

WHEREAS it is expedient to amend the ²Defence of India (Criminal Law IV of 1915. Amendment) Act, 1915; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Defence of India (Amendment) Act, 1916.

Amendment
of section 2,
Act IV of
1915.

2. After clause (I) of sub-section (I) of section 2 of the ²Defence of India (Criminal Law Amendment) Act, 1915, the following clauses shall be inserted— IV of 1915.
ed, namely :—

[*Vide* page 104 *supra*.]

Repeal of
Ordinance
III of 1915.

3. The Defence of India Ordinance, 1915, is hereby repealed.

III of 1915.

ACT No. III OF 1916.³

[8th March, 1916.]

An Act to provide for the trial, by Court-martial, of foreigners for offences against the Defence of India Rules.

WHEREAS it is expedient to provide for the trial, by Court-martial, of foreigners for offences against the Defence of India Rules; It is hereby enacted as follows :—

Short title,
extent and
duration.

1. (1) This Act may be called the “ Foreigners’ (Trial by Court-martial) Act, 1916.”

(2) It extends to the whole of British India, including British Baluchistan, the Sonthal Parganas, and the district of Angul.

(3) It shall be in force during the continuance of the ⁴present war, and for a period of six months thereafter :

Provided that the expiration of this Act shall not affect the validity of anything done in pursuance of it, and any person convicted under this Act may be punished as if it had continued in force, and all prosecutions and other legal proceedings pending under this Act at the time of the expiration there-

¹ For Proceedings in Council, see Gazette of India, 1916, Pt VI, p 4.

For application of this Act to Bejar and certain other areas under the Indian (Foreign Jurisdiction) Order in Council, 1902, see Foreign and Political Department Notification No. 1164-D, dated 17th March, 1916, in Leg. and O. W.

² *Supra*.

³ For Proceedings in Council, see Gazette of India, 1916, Pt. VI, p. 98.

For application of this Act to Bejar and certain other areas under the Indian (Foreign Jurisdiction) Order in Council, 1902, see Foreign and Political Department Notification No. 1164-D, dated 17th March, 1916, in Leg. and O. W.

⁴ As to date of termination of the war, see Act V of 1919, *infra*.

of may be completed and carried into effect and the sentences carried into execution as if this Act had not expired.

2. In this Act—

Definitions.

4 & 5 Geo.
V., c. 17.

(a) "British subject" has the same meaning as in section 27 of the British Nationality and Status of Aliens Act, 1914:

Provided that any person who holds a certificate of naturalization as a British subject granted under any Act of the Governor General in Council for the time being in force shall, for the purposes of this Act, be deemed to be a British subject.

IV of 1915. (b) "Defence of India Rules" means any rules for the time being in force made under section 2 of the ¹Defence of India (Criminal Law Amendment) Act, 1915.

(c) "Foreigner" means any person who is not a British subject.

3. (1) The Governor General in Council may, by order in writing, direct that a foreigner accused of anything which is an offence in virtue of the Defence of India Rules shall be tried by Court-martial.

Trial of
foreigners
contravening
rules under
section 2 of
the Defence
of India Act,
1915.

(2) An order made under sub-section (1) may be made in respect of all foreigners or any particular foreigner or any class of foreigners, and in respect of all offences against the said rules or any particular offence or any class of offences.

(3) An order made under sub-section (1) may be made in respect of or include, any foreigner so accused whether such offence was committed before or after the commencement of this Act.

4. When an order under section 3 has been made in respect of, or includes, any foreigner, such foreigner, when so accused, may be taken into military custody, and shall, if he is already in other custody, be handed over to military custody, and shall be proceeded against and dealt with as if he was a person subject to military law in accordance with the ²Army Act, and as if the offence of which he is accused was an offence against military law; and may, on conviction, be sentenced to, and shall be liable to suffer, any punishment assigned by the Defence of India Rules for the offence of which he is found guilty.

44 & 45
Vict., c. 58.

5. The trial and all matters precedent thereto and attendant thereon shall be held and carried out in accordance with the provisions of the ³Army Act and the rules for the time being in force thereunder:

44 & 45
Vict., c. 58.

Provided that the Governor General in Council may, by ³general or special order, modify, in such way as he may direct, any of the said provisions.

III of 1916. 6. The Foreigners' (Trial by Court-martial) Ordinance, 1916, is hereby repealed.

Repeal of
Ordinance
III of 1916.

¹ *Supra.*

² Coll. of Stat., Vol. I.

³ For order under rule 5, proviso, see Leg. and O. W.

ACT No. IV of 1916.¹

[8th March, 1916.]

An Act to amend the Indian Tariff Act, 1894, and for other purposes.

WHEREAS it is expedient to amend the ² Indian Tariff Act, 1894, and VII of 1894. to repeal, so far as it relates to this Act, and re-enact with amendments, section 22 of the ³ Sea Customs Act, 1878; It is hereby enacted as VIII of 1878. follows :—

Short title
and retro-
spective
effect

1. (1) This Act may be called the Indian Tariff (Amendment) Act, 1916.

(2) It shall be deemed to have come into force on the first day of March, 1916, and any sums due on account of new duties leviable thereunder or of any deficiency between the duties which have been paid and the duties which are leviable thereunder shall be deemed to be duties short levied within the meaning of section 39 of the ³ Sea Customs Act, 1878, and VIII of 1878. that Act shall apply accordingly

Definition.

2. In this Act the Indian Tariff Act, 1894 (hereinafter referred to as the said Act), means the ² Indian Tariff Act, 1894, as subsequently amended. VIII of 1894.

Substitution
of new sec-
tion 3 in
Act VIII of
1894.

3. For section 3 of the said Act, the following section shall be substituted, namely :—

“3. (1) There shall be levied and collected in every port to which this Act applies, the duties specified in the Second and Third Schedules.

(2) The Governor General in Council may, by notification in the Gazette of India, fix, for the purpose of levying the said duties, tariff values of any articles enumerated, either specifically or under general headings, in the said Schedules as chargeable with duty *ad valorem*, and may alter any tariff values for the time being in force

(3) Different tariff values may be fixed for different classes or descriptions of the same article.”

Substitution
of new Schedules for
Schedules II,
III, IV and
V of Act
VIII of
1894.
Repeals.

4. For the Second, Third, Fourth and Fifth Schedules of the said Act, the Schedules contained in the First Schedule to this Act shall be substituted.

5. The enactments specified in the Second Schedule to this Act are repealed to the extent specified in the fourth column thereof.

¹ For Statement of Objects and Reasons, see Gazette of India, 1916, Pt. V, p. 26, for Report of Select Committee, see *ibid*, 1916, Pt. V, p. 31; and for Proceedings in Council, see *ibid*, 1916, Pt. VI, pp. 86 and 99;

² Genl. Acts, Vol. IV.

³ Genl. Acts, Vol. II.

SCHEDULE I.

SCHEDULES TO BE SUBSTITUTED IN THE INDIAN TARIFF ACT, 1894.

(See section 4.)

" SCHEDULE II—IMPORT TARIFF."

PART I.

Articles which are free of duty

| No. | Names of Articles. |
|-----|--|
| | I.—Food, Drink and Tobacco— |
| 1 | Hops. |
| 2 | SALT imported into British India and issued, in accordance with rules made with the previous sanction of the Governor General in Council, for use in any process of manufacture; also salt imported into the port of Calcutta and issued with the sanction of the Government of Bengal to manufacturers of glazed stone-ware, also salt imported into any port in the provinces of Bengal and Bihar and Orissa and issued, in accordance with rules made with the previous sanction of the Governor General in Council, for use in curing fish in those provinces. |
| | (For the general duty on salt, see No. 30.) |
| | II.—Raw materials and produce and articles mainly unmanufactured. |
| | HIDES AND SKINS, RAW. |
| 3 | HIDES AND SKINS, raw or salted. |
| | SEEDS. |
| 4 | OIL-SEEDS imported into British India by sea from the territories of any Native Prince or Chief in India. |
| | TEXTILE MATERIALS. |
| 5 | COTTON, raw. |
| 6 | WOOL, raw. |
| | MISCELLANEOUS. |
| 7 | MANURES, all sorts, including animal bones and the following chemical manures.—Basic slag, nitrate of soda, muriate of potash, sulphate of potash, kainit salts, nitrate of lime, calcium cyanamide and mineral superphosphates. |

" SCHEDULE II—IMPORT TARIFF "

PART I—*contd.**Articles which are free of duty.*

| No | Names of Articles. |
|----|---|
| 8 | PULP OF WOOD, RAGS and other paper-making materials. |
| | III.—Articles wholly or mainly manufactured— |
| | APPAREL. |
| 9 | UNIFORMS AND ACCOUTREMENTS appertaining thereto, imported by a public servant for his personal use. |
| | ARMS, AMMUNITION AND MILITARY STORES. |
| 10 | <p>The following classes of ARMS, AMMUNITION AND MILITARY STORES —</p> <p>(a) Articles falling under the 5th, 6th, 8th, 9th or 10th item of No. 45, when they appertain to a firearm falling under the 1st or 3rd item and are fitted into the same case with such firearm.</p> <p>(b) Arms forming part of the regular equipment of an officer entitled to wear diplomatic, military, naval or police uniform.</p> <p>(c) A sword, a revolver, or a pair of pistols, when accompanying an officer of His Majesty's regular forces, or a commissioned officer of a volunteer corps, or certified by the commandant of the corps to which such officer belongs, or, in the case of an officer not attached to any corps, by the officer commanding the station or district in which such officer is serving, to be imported by the officer for the purpose of his equipment.</p> <p>(d) Swords and revolvers which are certified by an Inspector-General of Police to be part of the ordinary equipment of members of the Police force under his charge</p> <p>(e) Swords forming part of the equipment of Indian commissioned officers of His Majesty's Army.</p> <p>(f) Swords for presentation as army or volunteer prizes.</p> <p>(g) Arms, ammunition, and military stores imported with the sanction of the Government of India for the use of any portion of the military forces of a Native State in India which may be maintained and organized for Imperial Service.</p> <p>(h) Morris tubes and patent ammunition imported by officers commanding British and Indian regiments or volunteer corps for the instruction of their men.</p> |
| | CHEMICALS, DRUGS AND MEDICINES. |
| 11 | ANTI-PLAGUE SERUM. |
| 12 | QUININE and other alkaloids of cinchona. |

"SCHEDULE II--IMPORT TARIFF."

PART I--*contd.**Articles which are free of duty.*

| No. | Names of Articles. |
|--|--|
| HARDWARE, IMPLEMENTS AND INSTRUMENTS. | |
| 13 | The following AGRICULTURAL IMPLEMENTS when constructed so that they can be worked by manual or animal power, namely, winnowers, threshers, mowing and reaping machines, elevators, seedcrushers, chaff-cutters, root-cutters, horse and bullock gears, ploughs, cultivators, scarifiers, harrows, clod-crushers, seed-drills, hay-tedders, and rakes. |
| 14 | The following DAIRY APPLIANCES , when constructed so that they can be worked by manual or animal power, namely, cream separators, milk sterilizing or pasteurizing plant, milk aerating and cooling apparatus, churns, butter dryers, and butter workers. |
| 15 | INSTRUMENTS, APPARATUS and APPLIANCES , imported by a passenger as part of his personal baggage and in actual use by him in the exercise of his profession or calling. |
| 16 | WATER-LIFTS, SUGAR-MILLS, OIL-PRESSES , and parts thereof, when constructed so that they can be worked by manual or animal power. |
| MACHINERY. | |
| 17 | MACHINERY and COMPONENT PARTS thereof as defined in No. 58 imported by the owner of a cotton spinning or weaving mill and proved to the satisfaction of the Collector of Customs to be intended for use in a cotton spinning or weaving mill. |
| 18 | The following ARTICLES used in the manufacture of cotton, namely, bobbins (warping), forks for looms, healds, heald cords, heald knitting needles, laces, lags and needles for dobbies, pickers (buffalo and others), picking bands, picking levers, picking sticks (over and under), reed pliers, reeds, shuttles (for power looms), springs for looms, strappings and weft forks. |
| 19 | DRAWING-IN-FRAMES imported by the owner of a cotton weaving mill and proved to the satisfaction of the Collector of Customs to be intended for use in the weaving of cotton. |
| METALS. | |
| 20 | CURRENT SILVER, NICKEL, BRONZE , and COPPER COIN of the Government of India. |
| 21 | GOLD BULLION and coin. |
| PAPER. | |
| 22 | TRADE CATALOGUES and ADVERTISING CIRCULARS imported by packet book or parcel post. |

"SCHEDULE II—IMPORT TARIFF."

PART I—*concl'd.**Articles which are free of duty.*

| No. | Names of Articles. |
|--|---|
| YARNS AND TEXTILE FABRICS. | |
| 23 | COTTON TWIST AND YARN, and COTTON SEWING OR DARNING THREAD. |
| 24 | SECOND-HAND OR USED GUNNY BAGS made of jute. |
| MISCELLANEOUS | |
| 25 | ART, the following works of.—(1) statuary and pictures intended to be put up for the public benefit in a public place, and (2) memorials of a public character intended to be put up in a public place, including the materials used or to be used in their construction, whether worked or not. |
| 26 | Books, printed, including covers for printed books, maps, charts, and plans, proofs, music and manuscripts. |
| 27 | The following articles, when imported by the owner of a cotton weaving mill and proved to the satisfaction of the Collector of Customs to be intended for use in the weaving of cotton or the baling of woven cotton goods — Aniline blue, bisulphate of soda, China clay, chloride of magnesium, chloride of zinc, dressalin, Epsom salts, farina, Farmina, flannel tapping Glauber salts, glutina, glycerine substitutes, heald varnish, hoop iron, hoop steel, rivets for bales, sewing needles, sizing paste, sizing wax, soda ash, starch, velvet pulp. |
| IV.—Miscellaneous and unclassified— | |
| 28 | ANIMALS, living, all sorts. |
| 29 | SPECIMENS ILLUSTRATIVE OF NATURAL SCIENCE, including also antique coins and medals. |

"SCHEDULE II—IMPORT TARIFF."

PART II.

Articles which are liable to duty at special rates.

| No. | Names of Articles. | Unit or method of assessment. | Rate of duty. |
|-----|--|--|--|
| | I.—Food, Drink and Tobacco— | | R A. |
| | FISH. | | |
| 30 | FISH, SALTED, wet or dry . . . | Indian maund of 82 $\frac{2}{7}$ lbs. avoirdupois weight. | Such rate or rates of duty not exceeding twelve annas as the Governor General in Council may, by notification in the Gazette of India, from time to time, prescribe. |
| | LIQUORS. | | |
| 31 | ALE, Beer, and Porter . . . | Imperial gallon or 6 quart bottles. | Four annas and six pies. |
| 32 | CIDER and other fermented liquors . | Ditto. | Ditto. |
| 33 | SPIRIT, which has been rendered effectually and permanently unfit for human consumption. | <i>Ad valorem</i> . | 7 $\frac{1}{2}$ per cent. |
| 34 | PERFUMED SPIRITS . . . | Imperial gallon or 6 quart bottles. | 18 12 |
| 35 | LIQUEURS, Cordials, Mixtures and other preparations containing spirit— | | |
| | (a) Entered in such a manner as to indicate that the strength is not to be tested. | Ditto. | 14 10 |
| | (b) If tested . . . | Imperial gallon or 6 quart bottles of the strength of London proof | 11 4 and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof. |
| 36 | All other sorts of SPIRIT . . . | Ditto. | Ditto. |

"SCHEDULE II—IMPORT TARIFF."

PART II—*contd.**Articles which are liable to duty at special rates.*

| No. | Names of Articles. | Unit or method of assessment. | Rate of duty. |
|-----|--|--|--|
| 37 | WINES— | | R A. |
| | Champagne and all other sparkling wines not containing more than 42 per cent. of proof spirit. | Imperial gallon or 6 quart bottles. | 4 6 |
| | All other sorts of wines not containing more than 42 per cent. of proof spirit. | Ditto. | 1 12 |
| | Provided that all sparkling and still wines containing more than 42 per cent. of proof spirit shall be liable to duty at the rate applicable to 'All other sorts of Spirit.' | | |
| | SUGAR. | | |
| 38 | SUGAR, all sorts, including Molasses and Saccharine produce of all sorts, but excluding confectionery (<i>see</i> No. 74). | <i>Ad valorem</i> . | 10 per cent. |
| | OTHER FOOD AND DRINK. | | |
| 39 | SALT, excluding salt exempted under No. 2. | Indian maund of 82½ lbs. avoirdupois weight. | The rate at which excise duty is for the time being leviable on salt manufactured in the place where the import takes place. |
| | TOBACCO. | | |
| 40 | TOBACCO, unmanufactured . . . | Pound. | 1 0 |
| 41 | CIGARS AND CIGARETTES . . . | <i>Ad valorem</i> . | 50 per cent. |
| 42 | All other sorts of TOBACCO manufactured. | Pound . . . | 1 8 |

" SCHEDULE II—IMPORT TARIFF."

PART II—*contd.**Articles which are liable to duty at special rates.*

| No. | Names of Articles. | Unit or method of assessment. | Rate of duty. |
|-----|---|-------------------------------|------------------------|
| | <p>II.—Raw materials and produce and articles mainly unmanufactured.</p> <p>COAL, COKE AND PATENT FUEL.</p> | | R A. |
| 43 | COAL, COKE AND PATENT FUEL ... | Ton . . | 0 S |
| 44 | <p>OILS.</p> <p>PETROLEUM, including also naphtha and the liquids commonly known by the names of rock-oil, Rangoon oil, Burma oil, kerosine, paraffin oil, mineral oil, petioline, gasoline, benzol, benzoline, benzine, and any inflammable liquid which is made from petroleum, coal, schist, shale, peat or any other bituminous substance, or from any products of petroleum, but excluding the following classes of petroleum .—</p> <p>Petroleum which has its flashing point at or above two hundred degrees of Fahrenheit's thermometer, and is proved to the satisfaction of the Collector of Customs to be intended for use exclusively for the batching of jute or other fibre, or for lubricating purposes.</p> <p>Petroleum which has its flashing point at or above one hundred and fifty degrees of Fahrenheit's thermometer, and is proved to the satisfaction of the Collector of Customs to be intended for use exclusively as fuel or for some sanitary or hygienic purpose (<i>see</i> No. 80.)</p> | Imperial gallon | One anna and six pies. |

"SCHEDULE II—IMPORT TARIFF."

PART II—*contd.**Articles which are liable to duty at special rates.*

| No. | Names of Articles. | Unit or method of assessment. | Rate of duty. |
|-----|---|-------------------------------|--|
| | III.—Articles wholly or mainly manufactured— | | R A. |
| | ARMS, AMMUNITION AND MILITARY STORES. | | |
| 45 | Subject to the exemptions specified in No 10— | | |
| | (1) Firearms other than pistols, including gas and air-guns and rifles. | Each | 50 0 |
| | (2) Barrels for the same, whether single or double. | " | 30 0 |
| | (3) Pistols | " | 15 0 |
| | (4) Barrels for the same, whether single or double. | " | 10 0 |
| | (5) Main springs and magazine spring-locks for firearms including gas guns and rifles | " | 8 0 |
| | (6) Gun stocks and breech blocks | " | 5 0 |
| | (7) Revolver-cylinders, for each cartridge they will carry. | " | 2 8 |
| | (8) Actions (including skeleton and waster), breech bolts and their heads, cocking pieces, and locks (for muzzle-loading arms). | " | 1 8 |
| | (9) Machines for making, loading, or closing cartridges for rifled arms. | " | 10 0 |
| | (10) Machines for capping cartridges for rifled arms. | " | 2 8 |
| | | | or 20 per cent. <i>ad valorem</i> which-ever is higher. |
| | | | <i>Proviso 1.</i> —No duty in excess of 20 per cent. <i>ad valorem</i> shall be levied upon any of the articles specified in items Nos 1 to 10 of this column when they are imported in reasonable quantity, for his own private use, by any person lawfully entitled to possess the same. |
| | | | <i>Proviso 2.</i> —When any articles which have been otherwise imported, and upon which duty has been levied or is leviable under items Nos. 1 to 10 are purchased retail from the importer by a person lawfully entitled as |

"SCHEDULE II—IMPORT TARIFF."

PART II—*contd.**Articles which are liable to duty at special rates.*

| No. | Names of Articles. | Unit or method of assessment. | Rate of duty. |
|-----|--|-------------------------------|--|
| | | | aforesaid, in reasonable quantity for his own private use, the importer may apply to the Collector of Customs for refund or remission (as the case may be) of so much of the duty thereon as is in excess of 20 per cent. <i>ad valorem</i> ; and if such Collector is satisfied as to the identity of the articles and that such importer is in other respects entitled to such refund or remission, he shall grant the same accordingly. |
| 46 | GUNPOWDER for cannons, rifles, guns, pistols and sporting purposes. | <i>Ad valorem</i> | 20 per cent. |
| 47 | Subject to the exemptions specified in No. 10 all articles other than those specified in entry No. 45 which are ARMS OR PARTS OF ARMS within the meaning of the Indian Arms Act (excluding springs used for air-guns which are dutiable as hardware, under No. 97), all tools used for cleaning or putting together the same, all machines for making, loading, closing or capping cartridges for arms other than rifle arms and all other sorts of ammunition and military stores, and any articles which the Governor-General in Council may, by notification in the Gazette of India, declare to be ammunition or military stores for the purposes of this Act. | <i>Ad valorem</i> | 20 per cent. |
| | CHEMICALS, DRUGS AND MEDICINES. | | R A. |
| 48 | OPIMUM and its alkaloids | Seer of 80 tolas | 24 0 |
| | METALS. | | |
| 49 | SILVER, BULLION OR COIN, not otherwise specified (<i>see</i> Nos. 20 and 29). | Ounce | 0 4 |

"THE SCHEDULE II—IMPORT TARIFF."

PART II—*concl'd.**Articles which are liable to duty at special rates.*

| No. | Names of Articles. | Unit or method of assessment. | Rate of duty. |
|-----|---|-------------------------------|---|
| 50 | SILVER PLATE, silver thread and wire, and silver manufactures, all sorts. | <i>Ad valorem</i> | 15 per cent. |
| | | | Provided that where the silver contained in an article can be ascertained, or where an official or recognized certificate of assay in such form as the Government of India may prescribe, is presented showing the amount of silver contained in an article, the Collector of Customs shall levy duty at the rate of 4 annas per ounce on the amount of silver so determined and at the rate of 7½ per cent. on the difference between the value of such silver calculated at the market-value of silver and the real value of the article. |
| | TEXTILE FABRICS. | | |
| 51 | COTTON piece-goods, hosiery, thread other than sewing or darning thread, and all other manufactured cotton goods not otherwise specified. | <i>Ad valorem</i> | 3½ per cent. |

¹ For exemption from so much of import duty as is in excess of a duty of 10 per cent. *ad valorem*, see Gazette of India, 1916, Pt I, p. 1467.

"SCHEDULE II—IMPORT TARIFF."

PART III.

Articles which are liable to duty at 2½ per cent. ad valorem

| No. | Names of Articles. |
|---|---|
| I.—Food, Drink and Tobacco— | |
| GRAIN, PULSE AND FLOUR. | |
| 52 | GRAIN AND PULSE, all sorts including broken grain and pulse, but excluding flour (see No. 71). |
| PROVISIONS AND OILMAN'S STORES. | |
| 53 | VINEGAR in casks. |
| II.—Raw materials and produce and articles mainly unmanufactured— | |
| METALLIC ORES AND SCRAP IRON OR STEEL FOR RE-MANUFACTURE. | |
| 54 | IRON OR STEEL, old. |
| WOOD AND TIMBER. | |
| 55 | FIREWOOD. |
| III.—Articles wholly or mainly manufactured— | |
| CHEMICALS, DRUGS AND MEDICINES. | |
| 56 | COPPERAS, green. |
| HARDWARE IMPLEMENTS AND INSTRUMENTS. | |
| 57 | TELEGRAPHIC INSTRUMENTS AND APPARATUS, and parts thereof imported by or under the orders of a railway company. |
| MACHINERY. | |
| 58 | MACHINERY, namely, prime-movers and component parts thereof, including boilers and component parts thereof; also including locomotive and portable engines, steam-rollers, fire engines, and other machines in which the prime-mover is not separable from the operative parts. |
| MACHINERY (and component parts thereof), meaning machines or sets of machines to be worked by electric, steam, water, fire or other power not being manual or animal labour, or which, before being brought into use required to be fixed with reference to other moving parts; and including belting of all materials for driving machinery. | |

"SCHEDULE II—IMPORT TARIFF."

PART III—*contd.**Articles which are liable to duty at 2½ per cent. ad valorem.*

| No | Names of Articles. |
|----|--|
| | <p>Provided that the term does not include tools and implements to be worked by manual or animal labour, and provided also that only such articles shall be admitted as component parts of machinery as are indispensable for the working of the machinery, and are, owing to their shape or to other special quality not adapted for any other purpose.</p> <p><i>Note.</i>—This entry includes machinery and component parts thereof made of substances other than metal, but excludes the articles exempted under No. 17, No. 18 and No. 19</p> |
| | METALS—IRON AND STEEL. |
| 59 | <p>IRON, angle.</p> <p>„ bar, rod and channel including channel for carriages.</p> <p>„ pig.</p> <p>„ rice bowls.</p> |
| 60 | <p>IRON OR STEEL, anchors and cables</p> <p>„ „ beams, joists, pillars, girders, screw piles, bridge work and other such descriptions of iron or steel, imported exclusively for building purposes, including also roofing guttering and continuous roofing.</p> <p>„ „ bolts and nuts, including hook-bolts and nuts for roofing.</p> <p>„ „ hoops and strips.</p> <p>„ „ nails, rivets and washers, all sorts.</p> <p>„ „ pipes and tubes and fittings there for, such as bends, boots, elbows, tees, sockets, flanges and the like.</p> <p>„ „ rails, chans, sleepers bearing and fish-plates, spikes (commonly known as <i>dog-spikes</i>), switches and crossings, other than those described in No. 63, also lever-boxes, clips and tie-bars.</p> <p>„ „ sheets and plates, all sorts excluding discs and circles which are dutiable under No. 101.</p> <p>„ „ wire, including fencing wire and wire-rope, but excluding wire-netting which is dutiable under No. 104.</p> |

"SCHEDULE II—IMPORT TARIFF."

PART III—*concl'd.**Articles which are liable to duty at 2½ per cent. ad valorem.*

| No. | Names of Articles. |
|-----|--|
| 61 | STEEL, angle. „ bar, rod, and channel, including channel for carriages. „ cast including spring blistered and tub steel. „ ingots, blooms, billets and slabs. METALS OTHER THAN IRON AND STEEL. |
| 62 | LEAD sheets, for tea-chests. RAILWAY PLANT AND ROLLING STOCK. |
| 63 | RAILWAY MATERIAL for permanent-way and rolling-stock, namely, cylinders, girders, and other material for bridges, rails, sleepers, bearing and fish-plates, fish-bolts, chairs, spikes, crossings, sleeper fastenings, switches, interlocking apparatus, brake gear, couplings and springs, signals, turn-tables, weigh-bridges, engines, tenders, carriages, wagons, traversers, trolleys, trucks, and component parts thereof; also the following articles when imported by, or under the orders of, a railway company, namely, cranes, water cranes, water tanks, and standards wire and other materials for fencing. Provided that for the purpose of this entry 'railway' means a line of railway subject to the provisions of the Indian Railways Act, 1890, and includes a railway constructed in a Native State under the suzerainty of His Majesty, and also such tramways as the Governor General in Council may, by notification in Gazette of India specifically include therein. Provided also that only such articles shall be admitted as component parts of railway material as are indispensable for the working of railways and are owing to their shape or to other special quality, not adapted for any other purpose. MISCELLANEOUS. |
| 64 | PRINTING AND LITHOGRAPHING MATERIAL, namely, presses type, ink, brass rules, composing sticks, chases, imposing tables, and lithographic stones, stereo-blocks, roller moulds, roller frames and stocks, roller composition, standing screw and hot presses, perforating machines, gold blocking presses, letter typing apparatus, metal furniture, paper folding machines, and paging and numbering machines but excluding paper (<i>see</i> No. 106). |
| 65 | RACKS for the withering of tea-leaf. |
| 66 | SHIPS AND OTHER VESSELS for inland and harbour navigation, including steamers, launches, boats and barges, imported entire or in sections. |
| 67 | TEA-CHESTS of metal or wood, whether imported entire or in sections provided that the Collector of Customs is satisfied that they are imported for the purpose of the packing of tea for transport in bulk. |

"SCHEDULE II—IMPORT TARIFF."

PART —IV.

Articles which are liable to duty at 7½ per cent. ad valorem.

| No. | Names of Articles. |
|-----|---|
| | I.—Food, Drink and Tobacco— |
| | FISH. |
| 68 | FISH, excluding salted fish (<i>see</i> No. 30). |
| 69 | FISHMAWS, including singally and sozille, and sharkfins. |
| | FRUITS AND VEGETABLES. |
| 70 | FRUITS AND VEGETABLES, all sorts, fresh, dried, salted or preserved. |
| | GRAIN, PULSE AND FLOUR. |
| 71 | FLOUR. |
| | PROVISIONS AND OILMAN'S STORES. |
| 72 | PROVISIONS AND OILMAN'S STORES AND GROCERIES, all sorts, excluding vinegar in casks (<i>see</i> No. 53). |
| | SPICES. |
| 73 | SPICES, all sorts. |
| | SUGAR. |
| 74 | CONFECTIONERY. |
| | TEA. |
| 75 | TEA. |
| | OTHER FOOD AND DRINK. |
| 76 | COFFEE. |
| 77 | All other sorts of Food and Drink not otherwise specified. |
| | II.— Raw materials and produce and articles mainly unmanufactured— |
| | GUMS, RESINS AND LAC. |
| 78 | GUMS, RESINS AND LAC, all sorts. |
| | METALLIC ORES. |
| 79 | METALLIC ORES, all sorts. |

"SCHEDULE II—IMPORT TARIFF."

PART IV—*contd.**Articles which are liable to duty at 7½ per cent. ad valorem.*

| No. | Names of Articles. |
|----------------------------------|--|
| OILS. | |
| 80 | <p>All sorts of animal essential, mineral, and vegetable non-essential OILS, excluding petroleum as defined in No. 44, but including—</p> <p>Petroleum which has its flashing point at or above two hundred degrees of Fahrenheit's thermometer, and is proved to the satisfaction of the Collector of Customs to be intended for use exclusively for the batching of jute or other fibre or for lubricating purposes; and</p> <p>Petroleum which has its flashing point at or above one hundred and fifty degrees of Fahrenheit's thermometer, and is proved to the satisfaction of the Collector of Customs to be intended for use exclusively as fuel or for some sanitary or hygienic purpose.</p> |
| SEEDS. | |
| 81 | SEEDS, all sorts excluding oil-seeds imported into British India by sea from the territories of any Native Prince or Chief in India (<i>see</i> No. 4) |
| TALLOW, STEARINE AND WAX. | |
| 82 | TALLOW AND STEARINE, including grease and animal fat, and wax of all sorts not otherwise specified. |
| TEXTILE MATERIALS. | |
| 83 | <p>TEXTILE MATERIALS, the following :—</p> <p>Silk waste, and raw silk including cocoons, raw flax, hemp, jute and all other unmanufactured textile materials not otherwise specified.</p> |
| WOOD AND TIMBER. | |
| 84 | WOOD AND TIMBER, all sorts, not otherwise specified, including all sorts or ornamental wood. |
| MISCELLANEOUS. | |
| 85 | CANES AND BATTANS. |
| 86 | COWRIES and SHELLS. |
| 87 | IVORY, unmanufactured. |
| 88 | PRECIOUS STONES AND PEARLS, unset. |
| 89 | All other raw materials and produce and articles mainly unmanufactured, not otherwise specified. |

¹ For exemption of pearls and precious stones unset from the import duty *see* Gazette of India, 1916, Pt. I, pp. 332 and 1345.

"SCHEDULE II—IMPORT TARIFF."

PART IV—*contd.**Articles which are liable to duty at 7½ per cent. ad valorem.*

| No | Names of Articles. |
|-----|--|
| | <p>III.—Articles wholly or mainly manufactured—</p> |
| | <p>APPAREL.</p> |
| 90 | <p>APPAREL, including drapery, boots and shoes, and military and other uniforms and accoutrements, but excluding uniforms and accoutrements exempted from duty under No. 9, and silver thread (<i>see</i> No. 50).</p> |
| | <p>ARMS, AMMUNITION AND MILITARY STORES.</p> |
| 91 | <p>EXPLOSIVES, namely, blasting gunpowder, blasting gelatine, blasting dynamite, blasting roborite, blasting tonite, and all other sorts, including detectors and blasting fuze.</p> |
| | <p>CARRIAGES AND CARTS</p> |
| 92 | <p>CARRIAGES AND CARTS, including motor cars, motor cycles and motor waggons, bicycles, tricycles, jinrikshas, bath chairs, perambulators, trucks, wheelbarrows, and all other sorts of conveyances and component parts thereof.</p> |
| | <p>CHEMICALS, DRUGS AND MEDICINES.</p> |
| 93 | <p>CHEMICALS, DRUGS AND MEDICINES, all sorts, not otherwise specified</p> |
| | <p>CUTLERY, HARDWARE, IMPLEMENTS AND INSTRUMENTS.</p> |
| 94 | <p>CLOCKS AND WATCHES and parts thereof.</p> |
| 95 | <p>CUTLERY.</p> |
| 96 | <p>ELECTROPLATED WARE.</p> |
| 97 | <p>HARDWARE, IRONMONGERY AND TOOLS, all sorts, not otherwise specified.</p> |
| 98 | <p>All other sorts of IMPLEMENTS, INSTRUMENTS, APPARATUS AND APPLIANCES and parts thereof, not otherwise specified.</p> |
| | <p>DYES AND COLOURS.</p> |
| 99 | <p>DYEING AND TANNING SUBSTANCES, all sorts, and paints and colours and painters' materials, all sorts.</p> |
| | <p>FURNITURE, CABINETWARE AND MANUFACTURES OF WOOD.</p> |
| 100 | <p>FURNITURE, CABINETWARE and all other manufactures of wood not otherwise specified.</p> |

" SCHEDULE II—IMPORT TARIFF."

PART IV.—*contd.**Articles which are liable to duty at 7½ per cent. ad valorem.*

| No. | Names of Articles. |
|-----|---|
| | GLASSWARE AND EARTHENWARE. |
| 101 | GLASS AND GLASSWARE, all sorts, Chinese and Japanese ware, lacquered ware, earthenware, china and porcelain |
| | HIDES AND SKINS AND LEATHER. |
| 102 | HIDES AND SKINS not otherwise specified, LEATHER AND LEATHER MANUFACTURES, all sorts, not otherwise specified. |
| | MACHINERY. |
| 103 | MACHINERY and COMPONENT PARTS thereof meaning machines or parts of machines, to be worked by manual or animal labour. |
| | METALS—IRON AND STEEL. |
| 104 | All sorts of IRON and STEEL and manufactures thereof, not otherwise specified. |
| | METALS OTHER THAN IRON AND STEEL. |
| 105 | All sorts of METALS OTHER THAN IRON AND STEEL, and manufactures thereof, not otherwise specified. |
| | PAPER, PASTEBOARD AND STATIONERY. |
| 106 | PAPER AND ARTICLES MADE OF PAPER AND PAPIER MACHÉ, PASTEBOARD, MILLBOARD, AND CARDBOARD, all sorts, and STATIONERY, including ruled or printed forms and account and manuscript books, labels, advertising circulars, sheet or card almanacs and calendars, Christmas, Easter, and other cards, including cards in booklet form, including also wastepaper and old newspapers for packing, but excluding "trade" and advertising circulars imported by packet, book, or parcel per Act No 22; |
| | YARNS AND TEXTILE FABRICS. |
| 107 | YARNS AND TEXTILE FABRICS, that is to say :— Flax twist and yarn, and manufactures of flax ; Haberdashery and millinery ; Hemp manufactures ; Hosiery, excluding cotton hosiery (<i>see</i> No. 51); Jute twist and yarn, and jute manufactures, excluding second-hand or used gunny bags (<i>see</i> No. 24) ; |

" SCHEDULE II—IMPORT TARIFF."

PART IV—*contd.**Articles which are liable to duty at 7½ per cent. ad valorem.*

| No. | Names of Articles. |
|-----|---|
| | <p>Silk yarn, noils, and warps, silk thread, silk piece-goods, and other manufactures of silk ;</p> <p>Woollen yarn, knitting wool, and other manufactures of wool including felt ;</p> <p>All other sorts of yarns and textile fabrics, not otherwise specified.</p> |
| | MISCELLANEOUS. |
| 108 | ART WORKS of, excluding those specified in No. 25. |
| 109 | BRUSHES AND BROOMS. |
| 110 | BUILDING AND ENGINEERING MATERIALS, including asphalt, bricks, cement, chalk and lime, clay, pipes of earthenware, tiles, and all other sorts of building and engineering materials not otherwise specified. |
| 111 | CANDLES. |
| 112 | CORDAGE AND ROPE AND TWINE OF VEGETABLE FIBRE. |
| 113 | FIRE-WORKS. |
| 114 | FURNITURE, TACKLE AND APPAREL, not otherwise described, for steam, sailing, rowing and other vessels. |
| 115 | IVORY, manufactured. |
| 116 | JEWELLERY AND JEWELS, including gold plate and other manufactures of gold, but excluding silver plate and other manufactures of silver (<i>see</i> No. 50). |
| 117 | MATCHES. |
| 118 | MATS AND MATTING. |
| 119 | OILCAKES. |
| 120 | OILCLOTH AND FLOOR CLOTH. |
| 121 | PACKING—ENGINE AND BOILER—all sorts, excluding packing forming component part of any article included in Nos. 58 and 63. |
| 122 | PERFUMERY, excluding perfumed spirits (<i>see</i> No. 34) |
| 123 | PITCH, TAR AND DAMMER. |
| 124 | POLISHES AND COMPOSITIONS. |

" SCHEDULE II—IMPORT TARIFF."

PART IV—*concl'd.**Articles which are liable to duty at 7½ per cent. ad valorem.*

| No. | Names of Articles. |
|-------------------------------------|---|
| 125 | PRINTS, ENGRAVINGS AND PICTURES, including photographs and picture-cards. |
| 126 | RUBBER tyres for motos and motor cycles, and rubber tubes for tyres, and other manufactures of rubber, not otherwise specified. |
| 127 | SMOKER'S REQUISITES, excluding tobacco (<i>see</i> Nos. 40 to 42). |
| 128 | SOAP. |
| 129 | STARCH AND FARINA. |
| 130 | STONE AND MARBLE, and articles made of stone and marble. |
| 131 | TOILET REQUISITES, not otherwise specified. |
| 132 | TOYS, playing cards and requisites for games and sports. |
| 133 | UMBRELLAS, including parasols and sunshades, and fittings therefor. |
| 134 | All other articles wholly or mainly manufactured, not otherwise specified. |
| IV.—Miscellaneous and unclassified— | |
| 135 | CORAL. |
| 136 | FODDER, bran and pollards. |
| 137 | All other articles not otherwise specified, including articles imported by post. |

" SCHEDULE III—EXPORT TARIFF."

| No. | Names of Articles. | Per | Rate of duty. | |
|-----|----------------------------------|--------------------|---------------|----|
| | JUTE, other than Bimlpatam jute— | | R | A. |
| 1 | RAW JUTE— | | | |
| | (1) Cuttings | Bale of 400 lbs. . | 0 | 10 |
| | (2) All other descriptions . . | " " " " . | 2 | 4 |

" SCHEDULE III—EXPORT TARIFF. "

| No. | Names of Articles. | Per | Rate of duty. |
|-----|--|---|---------------|
| 2 | JUTE MANUFACTURES, when not in actual use as coverings, receptacles or bindings for other goods— | | R A. |
| | (1) Sacking (cloth, bags, twist, yarn, rope and twine). | Ton of 2,240 lbs. . | 10 0 |
| | (2) Hessian and all other descriptions of jute manufactures not otherwise specified. | " " " " . | 16 0 |
| | RICE. | | |
| 3 | RICE, husked or unhusked, including rice flour, but excluding rice bran and rice dust, which are free. | Indian mownd of 82½ lbs. avoirdupois weight | 0 3 |
| | ¹ TEA. | | |
| 4 | TEA | 100 lbs. | 1 8 |

SCHEDULE II.

REPEALS.

(See section 5.)

| No. | Year. | Short title. | Extent of Repeal. |
|------|-------|---|--|
| VIII | 1878 | The Sea Customs Act, 1878 | Section 22 so far as it relates to this Act. |
| III | 1886 | The Indian Tariff Act (1894) Amendment Act, 1896. | The whole. |
| VIII | 1910 | The Indian Tariff (Amendment) Act, 1910. | The whole. |
| VI | 1911 | The Indian Tariff (Amendment) Act, 1911. | The whole. |
| XVII | 1914 | The Second Repealing and Amending Act, 1914. | The entry in the First Schedule regarding the Indian Tariff Act, 1894. |

¹ For exemption of export duty on tea sent from Travancore by land to British Indian Ports for shipment thence to foreign countries, see Gazette of India, 1916, Pt. I, p. 1463.

ACT No. VI OF 1916.¹

[16th March, 1916.]

An Act further to amend the Indian Ports Act, 1908.

XV of 1908. WHEREAS it is expedient further to amend the ²Indian Ports Act, 1908; It is hereby enacted as follows :—

XV of 1908. 1. This Act may be called the Indian Ports (Amendment) Act, 1916. Short title.
 2. In section 4, sub-section (1) of the ²Indian Ports Act, 1908 (herein- Amendment of section 4, Act XV of 1908. after called the said Act), the words “ with the previous sanction of the Governor General in Council ” shall be omitted.

3. In section 5, sub-section (1) of the said Act, the words “ with the previous sanction of the Governor General in Council and ” shall be omitted. Amendment of section 5, Act XV of 1908.

4. In section 6, sub-section (1) of the said Act, the following amend- Amendment of section 6, Act XV of 1908. ments shall be made :—

(1) After clause (j) the following clause shall be inserted, namely :—

“(jj) for regulating the use of piers, jetties, landing places, wharves, quays, warehouses and sheds when belonging to the Government, and for fixing the rates to be paid for the use of the same ;”

(2) In clause (k) after the word “ port ” the words “ and for licensing and regulating the crews of any such vessels,” and after the word “ passengers ” the words “ or of the crew ” shall be inserted ; and at the end of the same clause, the following shall be added, namely :—“ and may by such rules provide for the fees payable in respect of any such license, and in the case of passenger vessels plying for hire, for the rates of hire to be charged and the conditions under which such vessels shall be compelled to ply for hire, and further for the conditions under which any license may be revoked ;”

5. In section 31 of the said Act, the following amendments shall be made, Amendment of section 31, Act XV of 1908. namely :—

(i) After sub-section (1) the following sub-section (2) shall be inserted, 1908. namely :—

“(2) Notwithstanding anything in sub-section (1), the owner or master of a vessel which is by that sub-section required to have a pilot, harbour-master or assistant of the port officer or harbour-master on board, shall be answerable for any loss or damage caused by the vessel or by any fault of the navigation of the vessel, in the same manner as he would have been if he had not been so required by that sub-section :

¹ For Statement of Objects and Reasons, see Gazette of India, 1915, Pt. V, p. 74 ; for Report of Select Committee, see *ibid*, 1916, Pt. V, p. 3 ; and for Proceedings in Council, see *ibid*, 1915, Pt. VI, p. 459, and *ibid* 1916, Pt. VI, pp. 3 and 205.

² Genl. Acts, Vol. VI.

Provided that the provisions of this sub-section shall not take effect till the first day of January, 1918, or such earlier date as the Governor General in Council may notify in that behalf in the Gazette of India."

(ii) The existing sub-sections (2), (3) and (4) shall be re-numbered (3), (4) and (5), respectively.

(iii) In the existing sub-section (3) for the word and figures "(1) and (2)" the word and figures "(1), (2) and (3)" shall be substituted.

Amendment of section 33, Act XV of 1908. 6. In section 33 of the said Act, the following amendments shall be made, namely:—

(i) In sub-section (1) after the figure (1), the following shall be inserted, namely:—

" Subject to the provisions of sub-section (2) "

(ii) After sub-section (1), the following sub-section (2) shall be inserted, namely:—

" (2) The Local Government may, by notification in the local official Gazette, alter or add to any entry in the First Schedule relating to ports within its own province, and this power shall include the power to regroup any such ports :

Provided that, if any such alteration or addition has the effect of increasing the port-dues in any such port, such alteration or addition shall require the sanction of the Governor General in Council."

(iii) In the existing sub-section (2) the words " with the previous sanction of the Governor General in Council " and the words " with the like-sanction " shall be omitted, and to the same sub-section, the following proviso shall be added, namely:—

" Provided that, except with the sanction of the Governor General in Council, the rates and the times so declared shall not be respectively higher or shorter than the maximum rate and the shortest time specified and fixed in the First Schedule for any port in the province "

(iv) The existing sub-sections (2), (3) and (4) shall be re-numbered (3), (4) and (5), respectively.

Amendment of section 34, Act XV of 1908. 7. In section 34 of the said Act, after the words " The Local Government may " the words " after consulting the authority appointed under section 36 " shall be inserted; and for the words " the vessels " the following shall be substituted, namely:—" subject to such conditions, if any, as it thinks fit to impose, any vessel or class of vessels; " and after the word " them " the words " or may extend the periods for which any vessel or class of vessels entering a port shall be exempt from liability to pay port-dues " shall be added.

Amendment of section 35, Act XV of 1908. 8. In section 35, sub-section (1) of the said Act, the proviso shall be omitted.

9. In section 36 of the said Act, sub-section (3) shall be omitted.

Amendment
of section 36,
Act XV of
1908.

10. In section 37, sub-section (2) (a) of the said Act, for the words "with the previous sanction" the words "subject to the control" shall be substituted.

Amendment
of section 37,
Act XV of
1908.

11. After section 68 of the said Act, the following sections shall be inserted, namely :—

Insertion of
new sections
68A and 68B
in Act XV of
1908.

"68A. Every authority exercising any powers or jurisdiction in, or relating to, any port to which this Act for the time being applies shall, if so required by an officer authorised by general or special order of the Governor General in Council in this behalf, co-operate in such manner, as such officer may direct, in carrying out any manœuvres in connection with any scheme or preparations for the defence of the said port in time of war, and for this purpose shall, if so required, temporarily place at the disposal of such officer the services of any of its staff and the use of any of its vessels, property, equipment or other material :

Authorities
exercising
jurisdiction
in ports to
co-operate in
manœuvres
for defence
of port.

Provided, firstly, that if any vessels are placed at the disposal of such officer in accordance with this section, the Government of India shall, in respect of the period during which they are so at his disposal, bear the running expenses of such vessels, and be responsible for any damage thereto.

Explanation.—The expression "running expenses" in this proviso includes all outlay incurred in connection with the use of the vessels other than any charges for their hire, or for the wages of the officers and crews of such vessels :

Provided, secondly, that any officer making a requisition under this section shall exercise his powers in such a way as to cause as little disturbance to the ordinary business of the port as is compatible with the exigencies of the efficient carrying out of the manœuvres :

Provided, thirdly, that no suit or other legal proceeding shall lie against any authority for any default occurring by reason only of compliance with a requisition under this section.

68B. Whenever the Governor General in Council is of opinion that an emergency has arisen which renders it necessary that the duties imposed for the purposes specified in section 68A on the authorities therein mentioned, or other duties of a like nature, should be imposed on such authorities continuously during the existence of the emergency, he may, by general or special order, authorise any officer to require the said authorities to perform such duties until the Governor General in Council is of opinion that the emergency has passed,

Duties of the
said author-
ities in an
emergency.

and the said authority shall comply accordingly, and the provisions of the said section shall apply subject to the following modification, namely :—

The Government of India shall pay any authority, on whom a requisition has been made, such compensation for any loss or damage attributable to such requisition, and for any services rendered or expenditure incurred in complying therewith as, in default of agreement, shall be decided to be just and reasonable, having regard to the circumstances of the case, by the arbitration of a person to be nominated in this behalf by the Governor General in Council, and the decision of such person shall be final.”

ACT No. VII of 1916¹

[16th March, 1916]

An Act to regulate the grant of titles implying qualifications in Western medical science, and the assumption and use by unqualified persons of such titles.

WHEREAS it is expedient to regulate the grant of titles implying qualifications in Western medical science, and the assumption and use by unqualified persons of such titles ; It is hereby enacted as follows :—

- | | |
|--|--|
| Short title | 1. This Act may be called the Indian Medical Degrees Act, 1916. |
| Definition n. | 2. In this Act “ Western medical science ” means the Western methods of Allopathic medicine, Obstetrics and Surgery, but does not include the Homœopathic or Ayurvedic or Unani system of medicine. |
| Right to confer degrees, etc | 3. The right of conferring, granting, or issuing in British India degrees, diplomas, licenses, certificates or other documents stating or implying that the holder, grantee or recipient thereof is qualified to practise Western medical science, shall be exercisable only by the authorities specified in the Schedule, and by such other authority as the Governor General in Council may, by notification ² in the Gazette of India, and subject to such conditions and restrictions as he thinks fit to impose, authorize in this behalf. |
| Prohibition of unauthorised conferment of degrees, etc | 4. Save as provided by section 3, no person in British India shall confer, grant, or issue, or hold himself out as entitled to confer, grant, or issue any degree, diploma, license, certificate or other document stating or implying that the holder, grantee or recipient is qualified to practise Western medical science. |

¹ For Statement of Objects and Reasons, see Gazette of India, 1915, Pt. V, p 76 ; for Report of Select Committee, see *ibid.*, 1916, Pt V, p 7 ; and for Proceedings in Council, see *ibid.*, 1915, Pt. VI, p 460, and *ibid.*, 1916, Pt VI, pp. 5 and 206.

² For notifications authorising certain institutions in the various provinces to grant certificates, diplomas, degrees, etc., see List of Gen. R. and O.

5. Whoever contravenes the provisions of section 4 shall be punishable with fine which may extend to one thousand rupees; and, if the person so contravening is an association, every member of such association who knowingly and wilfully authorises or permits the contravention, shall be punishable with fine which may extend to five hundred rupees. Contraven-
section 4.

6. Whoever voluntarily and falsely assumes, or uses any title or description or any addition to his name implying that he holds a degree, diploma, license or certificate conferred, granted or issued by any authority referred to in section 3, or recognized by the General Council of Medical Education of the United Kingdom, or that he is qualified to practise Western medical science, shall be punishable with fine which may extend to two hundred and fifty rupees, or, if he subsequently commits, and is convicted of, an offence punishable under this section, with fine which may extend to five hundred rupees : Penalty for
falsely as-
suming or
using medi-
cal titles.

Provided that nothing in this section shall apply to the use by any person of any title, description, or addition which, prior to the commencement of this Act, he used in virtue of any degree, diploma, license or certificate conferred upon, or granted or issued to him.

7. No Court shall take cognizance of an offence punishable under this Act except upon complaint made by order of the Local Government, or upon complaint made, with the previous sanction of the Local Government, by a Council of Medical Registration established by any enactment for the time being in force in the province. Cognizance
of offences.

8. No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence punishable under this Act. Jurisdiction
of Magis-
trates.

SCHEDULE.

(See section 3.)

1. Every University established by an Act of the Governor General in Council.
2. The State Medical Faculty in Bengal.
3. The College of Physicians and Surgeons of Bombay.
4. The Board of Examiners, Medical College, Madras.

ACT No. VIII of 1916.¹

[20th March, 1916.]

An Act further to amend the Presidency Banks Act, 1876.

XI of 1876. WHEREAS it is expedient to amend the ²Presidency Banks Act, 1876; It is hereby enacted as follows :—

¹ For Proceedings in Council, see Gazette of India, 1916, Pt. VI, p. 289.

² Genl. Acts, Vol. II.

Short title.
Amendment
of sections
36 and 45,
Act XI of
1876.

1. This Act may be called the Presidency Banks (Amendment) Act, 1916.
2. In the ¹Presidency Banks Act, 1876 (hereinafter called the said Act), XI of 1876.
the following amendments shall be made, namely :—

(i) After clause (2) of paragraph (a) of section 36, the following clause shall be inserted, namely :—

“(2A) India three-and-a-half per cent. stock, India three per cent. stock, India two-and-a-half per cent. stock, or any other capital stock which may, at any time hereafter, be issued by the Secretary of State for India in Council under the authority of an Act of Parliament and charged on the revenues of India.”

(ii) In paragraph (d) of section 36, and in section 45, for the words and figures “clauses (1), (2), (3) and (4)” the words and figures “clauses (1), (2), (2A), (3) and (4)” shall be substituted.

Construction
of references
to certain
clauses of
section 36,
Act XI of
1876.
Validation
of past
transactions.

3. Any reference in the said Act to section 36, paragraph (a), Nos. (1) to (5) inclusive, shall be deemed to include a reference to section 36, paragraph (a), clause (2A).

4. Any business carried on or transacted, or investment made prior to the commencement of this Act which, if this Act had been in force, could have been validly carried on, transacted or made, is hereby validated.

ACT No. X of 1916.²

[5th September, 1916.]

An Act to prohibit or control trading by hostile foreigners and hostile firms and for other purposes.

WHEREAS it is expedient to take powers further to prohibit or control trading by hostile foreigners and hostile firms and for other purposes ; It is hereby enacted as follows :—

Short title
and duration.

1. (1) This Act may be called the Enemy Trading Act, 1916.

(2) It shall remain in force during the continuance of the ³present war, and for a period of six months thereafter.

Definitions.

2. In this Act—

“company” means any company, firm or association, or body of individuals whether incorporated or not ;

¹ Genl Acts, Vol. II.

² For Proceedings in Council, see Gazette of India, 1916, Pt. VI, p 505.

This Act (X of 1916) repealed and re-enacted Ordinance V of 1916, and all notifications, orders and rules made under that Ordinance and in force are to be deemed to be made and in force under this Act, see Act XV of 1918 *infra*

For application of the Act to Berar under the Indian (Foreign Jurisdiction) Order in Council, 1902, see Notification No. 2029-I. B., dated 14th September, 1916, in Leg. and O. W.

³ As to date of termination of the war, see Act V of 1919, *infra*.

“ hostile foreigner ” means a subject of a State for the time being at war with His Majesty, and includes any company constituted according to the laws of such State, and the ruler or Government of any such State; and

“ hostile firm ” means any of the following, namely :—

- (a) any hostile foreigner who has, or at any date subsequent to the 3rd day of August, 1914, had, an office, agency or place of business in British India ;
- (b) any company of which any member or officer is a hostile foreigner, or of which a hostile foreigner was a member or officer on the 3rd day of August, 1914, and which has or has had since that date an office, agency or place of business in British India ;
- (c) any person, or company who or which has, at any time since the 3rd day of August, 1914, carried on business in British India, and whose business is, or was, in the opinion of the Governor General in Council, either by reason of its nature or of the persons who carry or carried it on, or for any other cause whatsoever, carried on either under the control, whether direct or indirect, of any hostile foreigner, or carried on wholly or mainly for the benefit of hostile foreigners generally, or any class of hostile foreigners or any individual hostile foreigner.

3. (1) The Governor General in Council may, by general or special order, ^{Power to} appoint ^{Inspectors.} Inspectors for the purpose of determining whether any business is or was carried on by a hostile firm within the meaning of this Act.

(2) The Inspector may summon before him any person whom he believes to be capable of giving information concerning the trade, dealings, affairs or property of such business, and of the antecedents and nationality of those by whom it is or was carried on or controlled.

(3) The Inspector may examine such person on oath concerning the same, and may reduce his answers to writing, and require him to sign them.

(4) The Inspector may require such person to produce any documents in his custody or power in any way relating to such business or to the persons by whom it is or was carried on or controlled.

(5) If any person so summoned refuses to come before the Inspector at the time appointed, the Inspector may cause him to be apprehended and brought before him for examination.

(6) If any person refuses to answer any question or to produce any document, which under this section the Inspector is empowered to ask or require production of, such person shall be punishable with imprisonment

which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Power to prohibit or restrict, or wind up hostile firms.

¹4. (1) The Governor General in Council may make an order either—

(a) prohibiting any hostile firm from carrying on business, except for the purposes and subject to the conditions, if any, specified in the order ; or

(b) requiring the business of such firm to be wound up ; and may in any case, where he has made an order prohibiting or limiting the carrying on of the business, at any time, if he thinks it expedient, substitute for that order an order requiring the business to be wound up.

(2) Every order made under sub-section (1) shall be published by notification in the Gazette of India

(3) If any person contravenes the provisions of any order made under this section, he shall be punishable with imprisonment which may extend to one year, and shall also be liable to fine.

(4) An order made under this section shall continue in force, notwithstanding the termination of the present war, until determined by order of the Governor General in Council.

Winding up order.

²5. (1) Where the Governor General in Council makes an order under this Act requiring a business to be wound up, the order shall, on notification in the Gazette of India, have effect as if it were a winding up order made by a Court under the ³Indian Companies Act, 1913, and the provisions of that Act relating to winding up by the Court and the rules made thereunder subject to such exceptions, restrictions, extensions, modifications and adaptations as the Governor General in Council may, by general or special order, prescribe, or such other rules as may be prescribed by him shall apply to the winding up of the business :

VII of 1913.

Provided that, for the purposes of any winding up order under this Act, all powers exercisable by the Court under the said ³Indian Companies Act shall be exercisable by the Governor General in Council, or by such other authority as he may appoint either generally or specially in that behalf :

VII of 1913.

Provided also that the assets of the business and any money resulting from the realization of any part thereof shall be dealt with in accordance with such rules as the Governor General in Council may make in that behalf.

(2) Where an order has been made under this Act directing the winding up of the business of a hostile firm, the hostile firm shall not, nor shall any

¹ For notifications under section 4, and under the corresponding section of Ordinance V of 1916, *see* Leg. and O. W.

² For order under section 5, and under the corresponding section of the repealed Ordinance V of 1916, *see* Leg. and O. W.

³ Genl. Acts, Vol. VII.

other person, commence or initiate, whilst that order remains in force, any other proceedings of a like nature or calculated in any way to interfere with the carrying out of such order.

¹ 6. (1) Where it appears to the Governor General in Council that a contract entered into before or during the war, or a transfer of property, moveable or immoveable, made during the war, with or by a hostile foreigner or a hostile firm is injurious to the public interest, or was made with the object of evading any provision of the law, the Governor General in Council may by order cancel or determine such contract, either unconditionally or upon such conditions as he thinks fit, or declare such transfer to be void either in whole or in part, or may impose such conditions on the transferee as he thinks fit.

Contracts or transfers against the public interest.

(2) The powers conferred by sub-section (1) in respect of transfers of property shall be exercisable also in respect of any subsequent transfer or sub-transfer which, in the opinion of the Governor General, is injurious to the public interest, or was made with the object of evading the law.

(3) On the making of an order under this section declaring any transfer or subsequent transfer or sub-transfer to be void, all property, the transfer of which is declared void by such order, shall, with effect from the date of the order, be deemed to be re-vested in the original transferor, or, if a winding up order has been made under section 4 (1) (b), in the liquidator.

XIV of 1915. ¹ 7. (1) The Governor General in Council, in any case where it appears to him to be expedient to do so, may by order vest in any Custodian appointed under the ²Enemy Trading Act, 1915, any property, moveable or immoveable, belonging to, or deemed to be vested in, or managed or held whether in trust or otherwise, for, or on behalf of, a hostile foreigner, a hostile firm or any person or company residing in, or carrying on business in the dominions of, a State at war with His Majesty, or the right to transfer that property, and may by any such order or any subsequent order confer on the Custodian such powers of selling, managing and otherwise dealing with the property as to the Governor General in Council may seem proper.

Power of Governor General in Council to vest property in Custodian under the Enemy Trading Act, 1915.

(2) A vesting order under this section shall, notwithstanding the provisions of any other law to the contrary, be sufficient to vest in the Custodian any property or the right to transfer any property as provided by the order without the necessity of any further document.

(3) Where, in the exercise of the powers conferred on him by the Governor General in Council, the Custodian proposes to sell any shares or stock forming part of the capital of any company or any securities issued by the

¹ For orders under this section, and under the corresponding section of the repealed Ordinance V of 1916, see Leg. and O. W.

² *Supra*.

company in respect of which a vesting order under this Act has been made, the company may, with the consent of the Governor General in Council, purchase the shares, stock or securities, notwithstanding anything to the contrary in any law or in any regulation of the company, and any shares, stock or securities so purchased may, from time to time, be re-issued, by the company.

(4) The transfer by the Custodian of any property shall be conclusive evidence in favour of the transferee and of the Custodian that the requirements of this section have been complied with.

(5) All property vested in the Custodian under this section and the proceeds of the sale of, or money arising from, any such property, shall be dealt with by him in accordance with such directions as he may receive from the Governor General in Council; and no such property or money shall be liable to be attached or otherwise taken in execution.

Validity of
vesting
orders.

8. Where a vesting order has been made under this Act as respects any property belonging to, or held or managed for, or on behalf of, a person who appeared to the Governor General in Council to be a person to whom the provisions of section 7 were applicable, the order shall not, nor shall any proceedings thereunder or in consequence thereof, be invalidated or affected by reason only of such person having, prior to the date of the order, died or ceased to be a person to whom the said provisions were applicable, or subsequently dying or ceasing to be such a person or by reason of its being subsequently ascertained that he was not such a person, as the case may be.

Registration
of transfer
without
production
of certificates,
etc.

9. Where the Custodian executes a transfer of any shares, stock or securities which he is empowered to transfer by a vesting order made under this Act, the company in whose books the shares, stock or securities are registered shall, upon the receipt of the transfer so executed by the Custodian, and upon being required by him so to do, register the shares, stock or securities in the name of the Custodian or other transferee, notwithstanding any regulation or stipulation of the company, and notwithstanding that the Custodian is not in possession of the certificate, scrip or other document of title relating to the shares, stock or securities transferred; but such registration shall be without prejudice to any lien or charge in favour of the company or to any other lien or charge of which the Custodian has express notice.

Power to
make rules.

¹ 10. (1) The Governor General in Council may make rules for all or any of the following purposes, namely:—

- (a) providing for the distribution or disposal of any assets, or any money resulting from the realization of any part thereof, of any business in respect of which a winding up order has been made under this Act;

¹ For rules under section 10, and under the corresponding section of repealed Ordinance V of 1916, see Leg and O. W.

- (b) prescribing that hostile foreigners and hostile firms or any class of hostile foreigners or hostile firms shall, when required by the Custodian, furnish to him such particulars as he may require of all or any moveable or immoveable property in their possession, or under their control, whether direct or indirect ;
- (c) requiring persons in British India to furnish to the Custodian such particulars as he may require of all or any class of debts or other property due by them to any person to whom the provisions of section 7 are or may be applicable ;
- (d) prescribing the remuneration payable to the Custodian in respect of his duties under this Act, the fund from which it shall be paid, and the method of collecting the same ; and
- (e) generally for carrying out the purposes of this Act.

(2) In making any rule under this section, the Governor General in Council may direct that a breach of it shall be punishable with imprisonment which may extend to a term not exceeding six months, or with fine which may extend to one thousand rupees, or with both.

11. Every license for the time being in force granted under the Hostile Foreigners' (Trading) Order permitting the licensee to trade or carry on business subject to conditions or restrictions shall be deemed to be an order made under section 4 (1) (a), and this Act shall have effect accordingly.

Certain licenses under the Hostile Foreigners' (Trading) Order to be deemed to be orders issued under section 4 (1) (a).

12. (1) The Governor General in Council may, by notification in the Gazette of India, declare that the powers conferred by section 7 in regard to the property, moveable or immoveable, of the persons referred to therein shall extend to the property, moveable or immoveable, in British India, of any company specified in such notification of which any member is a hostile foreigner, or of which a hostile foreigner was a member or officer on the 3rd day of August, 1914, notwithstanding that such company is not a company trading in British India.

Power to deal with non-trading companies.

(2) On the publication of a notification under sub-section (1), the company shall be deemed to be a person referred to in section 7 of this Act and this Act shall have effect accordingly.

13. Any act done after the 3rd day of August, 1914, by, or under the orders of, any officer of Government in respect of the property, moveable or immoveable, of any hostile foreigner or hostile firm which, if this Act had been in force, could have been validly done in the exercise of the powers conferred thereby, or which could have been conferred thereunder, is hereby validated.

Validation of past action.

14. The Enemy Trading Ordinance is hereby repealed.

Repeal of Ordinance of 1916.

ACT No. XI OF 1916.¹

[5th September, 1916.]

An Act to provide further power to prohibit or restrict the import and export of goods to and from British India.

WHEREAS it is expedient to provide further power to prohibit or restrict the import and export of goods to and from British India ; It is hereby enacted as follows :—

Short title,
extent and
duration.

1. (1) This Act may be called the Import and Export of Goods Act, 1916 ;

(2) It extends to the whole of British India ; and

(3) It shall remain in force during the continuance of the ² present war, and for a period of six months thereafter.

Definitions.

2. In this Act—

“ export ” means the taking by sea or land out of British India ;

“ import ” means the bringing by sea or land into British India.

Power to
prohibit or
restrict im-
port or
export of
goods from
or to any
country or
place, or any
person or
class of
persons.

³ 3. The Governor General in Council may, by notification in the Gazette of India, prohibit or restrict, in any way he may specify in such notification, the import or export of all or any goods or any class of goods from or to any country or place, or from or to any person or class of persons.

Application
of the pro-
visions of
Act VIII
of 1878.

4. Where, by a notification issued under section 3, the import or export of any goods is prohibited or restricted, such goods shall be deemed to be goods of which the import or export has been prohibited or restricted under section 19 of the ⁴ Sea Customs Act, 1878, and the provisions of the said Act shall have effect accordingly

VIII of
1878.

Provided that, in any proceedings for the adjudication of confiscation of any goods to which the provisions of any notification under this Act are alleged to apply, the goods shall be deemed to be goods of which the import or export has been so prohibited or restricted, as the case may be, unless the contrary is proved.

Summary
procedure for
recovery of
penalty of
bond.

5. (1) Where any bond has been executed for the due performance of any condition imposed in the exercise or by virtue of the power of restriction conferred by section 3, the officer in whose favour the bond has been executed or his successor in office may, if he is satisfied that such bond has been

¹ For Proceedings in Council, see Gazette of India, 1916, Part VI, p. 506.

For extension of this Act to the Northern and Southern Shan States, see Notification No. 13, dated the 15th March, 1917. Burma Gazette, 1917, Part I, p. 177.

² As to date of termination of the war, see Act V of 1919, *infra*.

³ For notification under section 3, and under the corresponding section of the repealed Ordinance IV of 1916, see Leg. and O. W.

⁴ Genl. Acts, Vol. II.

forfeited, call upon the person bound thereby to pay the penalty to show cause why it should not be paid by him.

(2) If, in the opinion of such officer, sufficient cause is not shown and the penalty is not paid, he may, in addition to all other legal remedies, proceed to recover the same as if it were an arrear of land revenue, and shall, for that purpose, have all the powers conferred upon the Collector by any enactment relating to land-revenue for the time being in force in any part of the province in which the bond was executed.

VIII of
1878.

6. All notifications under section 19 of the ¹Sea Customs Act, 1878, issued after the 3rd day of August, 1914, and in force at the commencement of this Act, shall be deemed to have been issued under the provisions of section 3, and any action taken after the said date which, if this Act had been in force, could have been validly taken, is hereby validated.

Certain notifications under Act VIII of 1878 to be deemed to be issued under this Act.

IV of 1916.

7. The Import and Export of Goods Ordinance, 1916, is hereby repealed.

Repeal of Ordinance IV of 1916.

ACT No. XII of 1916²

[20th September, 1916.]

An Act to amend the Indian Lunacy Act, 1912.

IV of 1912.

WHEREAS it is expedient to amend the Indian Lunacy Act, 1912 ; It is hereby enacted as follows :—

IV of 1912.

1. This Act may be called the Indian Lunacy (Amendment) Act, 1916.
2. After section 11 of the ³Indian Lunacy Act, 1912, the following section shall be inserted, namely :—

Short title.

Insertion of new section 11A in Act IV, 1912.

“ 11A. (1) When an arrangement has been made with any foreign European State with respect to the reception of lunatics in asylums in British India, the Governor General in Council may, by notification in the Gazette of India, direct that reception orders may be made under this Act in the case of any lunatic or class of lunatics residing in the territories in India of such foreign European State, and shall in such notification specify the province or provinces within which such reception orders may be made.

Reception order in case of lunatics from foreign States in India.

(2) On publication of a notification under sub-section (1), the provisions of this Act as to the making of reception orders on petition and for temporary

¹ Genl. Acts, Vol. II.

² For Statement of Objects and Reasons, see Gazette of India, 1916, Pt. V, p. 53 ; and for Proceedings in Council, see *ibid*, 1916, Pt. VI, pp. 507 and 542.

³ Genl. Acts, Vol. VII.

detention in suitable custody shall apply in the case of such lunatics, with the following modifications, namely .—

- (a) an application for a reception order may be made by petition presented by such officer or agent of the foreign State in which the alleged lunatic ordinarily resides, as may by general or special order be approved by the Local Government in this behalf ;
 - (b) the functions of the Magistrate shall be performed by such officer as the Local Government may, by general or special order, appoint in this behalf, and such officer shall be deemed to be the Magistrate having jurisdiction over the alleged lunatic for all the purposes of the said provisions ;
 - (c) for the purposes of sections 5 and 18 (1), the expressions “ medical officer ” and “ medical practitioner ” shall include such person or class of persons as the Local Government may specify in this behalf ;
 - (d) the Magistrate may in his discretion extend the period prescribed by section 19 within which the alleged lunatic must have been medically examined , and
 - (e) sections 6 (1), (2), (3), 11 and 34 of the Act shall not apply ;
- and with such other modifications, restrictions, or adaptations as the Governor General in Council may, by notification in the Gazette of India, direct for the purpose of facilitating the application of the said provisions.

(3) A reception order made under this section shall be deemed to be a reception order made under section 7 or section 10, as the case may be.”

ACT No. XIII of 1916.¹

[28th September, 1916.]

An Act to amend certain enactments.

WHEREAS it is expedient that certain formal amendments should be made in the enactments specified in the Schedule ; It is hereby enacted as follows :—

Short title.

Amendment
of certain
enactments.

1. This Act may be called the Amending Act, 1916.
2. The enactments specified in the Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

¹ For Statement of Objects and Reasons, see Gazette of India, 1916, Pt. V, p. 58 ; and for Proceedings in Council, see *ibid*, 1916, Pt. VI, pp. 541 and 571.

THE SCHEDULE.

AMENDMENTS.

(See section 2.)

| 1 | 2 | 3 | 4 |
|-------|------|---|--|
| Year. | No. | Short title. | Amendments |
| 1873 | V | The Government Savings Banks Act, 1873. | In section 3, for the definition of "minor" the following shall be substituted, namely — "Minor" means a person who is not deemed to have attained his majority under the Indian Majority Act, 1875." |
| 1894 | VIII | The Indian Tariff Act, 1894 | In section 7, sub-section (1), for the words "Third Schedule," the words "Second Schedule" shall be substituted. |
| 1898 | V | The Code of Criminal Procedure, 1898. | In section 4, clause (j), the word "and" where it occurs between the word "Madras" and the word "Bombay" shall be omitted, and for the words "the High Court of Judicature for the North-Western Provinces," the words "Allahabad and Patna" shall be substituted. In the proviso to section 178, after the figures "1861," the words and figures "or section 107 of the Government of India Act, 1915" shall be inserted. In sections 194, sub-section (1), 266 and 267, after the figures "1861," the words and figures "or the Government of India Act, 1915" shall be inserted, and in section 266, the words "or to be established" shall be omitted. In section 555, for the words and figures "15 of the Indian High Courts Act, 1861," the words and figures "107 of the Government of India Act, 1915" shall be substituted. |
| 1899 | II | The Indian Stamp Act, 1899 | In section 2, clause (8), sub-clause (a), after the words "St. George," the words "the Presidency of Fort William in Bengal" shall be inserted, and for the word "Bengal," the words "Bihar and Orissa" shall be substituted. In section 57, sub-section (1), after clause (b), the following shall be inserted, namely.— "(bb) if it arises in the territories for the time being administered |

THE SCHEDULE.

AMENDMENTS.

(See section 2)

| 1 | 2 | 3 | 4 |
|------|------|--------------------------------------|---|
| Year | No | Short title. | Amendments. |
| 1908 | V | The Code of Civil Procedure, 1908. | <p>by the Lieutenant-Governor of Bihar and Orissa — to the High Court of Judicature at Patna”</p> <p>In sections 111, 116, 122, 126, 129 and 130, after the words “1861,” the words “as amended by the Government of Bihar and Orissa, 1915,” shall be inserted</p> <p>In section 123, sub-section (1), for the words “each of the towns of Calcutta, Madras, Bombay, Allahabad, Lahore and Rangoon,” the following shall be substituted, namely —</p> <p>“the town which is the usual place of sitting of each of the High Courts and Chief Courts referred to in section 122”</p> <p>In section 126 for the words and figures “section 15 of that Act,” the words and figures “the proviso to section 107 of the latter Act” shall be substituted, and for the word “sanction” wherever it occurs in the said section, the word “approval” shall be substituted</p> <p>In section 130, for the words “of that Act,” the words and figures “or section 107, of those Acts” shall be substituted.</p> |
| 1914 | VIII | The Indian Motor Vehicles Act, 1914. | In section 15, for the word “thereunder,” the words and figures “by the Local Government under section 11” shall be substituted. |

ACT No. XIV of 1916.¹

[28th September, 1916]

An Act to make provision in connection with the present war with respect to bills of exchange payable outside British India.

WHEREAS it is expedient to make provision in connection with the present

¹ For Statement of Objects and Reasons, see Gazette of India, 1916, Pt V, p. 52; and for Proceedings in Council, see *ibid*, 1916, Pt. VI, pp. 507 and 572.

war with respect to bills of exchange payable outside British India ;
It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Bills of Exchange Act, 1916. Short title
- (2) It shall be in force during the continuance of the ¹present war, and for and duration.

2. Notwithstanding anything contained in the ²Negotiable Instruments Act, 1881, or in any other enactment for the time being in force, delay in the presentment for ³[acceptance or] payment of a bill of exchange, where the proper place for ³[acceptance or] payment is outside British India, is excused if the delay is, or has been, due either directly or indirectly to circumstances arising out of the present war, or to the impracticability owing to similar circumstances, of transmitting the bill to the place of ³[acceptance or] payment with reasonable safety. Delay in presentment of a bill for payment due to war.

3. Where, in any suit or other proceeding founded upon a bill of exchange payable outside British India, there is reason to believe that the bill has been lost, and that the loss can reasonably be presumed to be due either directly or indirectly to circumstances arising out of the present war, the Court may allow proof of the bill to be given by means of a copy thereof certified by a notary public, or by means of such other evidence as the Court thinks reasonable under the circumstances, and may pass a decree thereon notwithstanding any rule of law of the place where the bill is made payable : Bills lost owing to the war.

Provided that such indemnity be given against the claims of other persons as the Court may require.

ACT No. XV of 1916.⁴

[28th September, 1916.]

An Act to remove certain existing disabilities in respect of the power of disposition of property by Hindus for the benefit of persons not in existence at the date of such disposition.

WHEREAS it is expedient to remove certain existing disabilities in respect of the power of disposition of property by Hindus for the benefit of persons not in existence at the date of such disposition ; It is hereby enacted as follows :—

1. (1) This Act may be called the Hindu Disposition of Property Act. Short title

¹ As to date of termination of the war, see Act V of 1919, *infra*.

² Genl. Acts, Vol. III.

³ These words were inserted by section 2 of the Indian Bills of Exchange (Amendment) Act, 1917 (IX of 1917), *infra*.

⁴ For Statement of Objects and Reasons, see Gazette of India, 1916, Pt. V, p. 2 ; for Report of Select Committee, see *ibid*, 1916, Pt. V, p. 76 ; and for Proceedings in Council, see *ibid*, 1916, Pt. VI, pp. 19, 509, 542 and 585.

(2) It extends, in the first instance, to the whole of British India, except the province of Madras: Provided that the Governor General in Council may, by notification in the Gazette of India, extend this Act to the province of Madras.

Dispositions
for the bene-
fit of persons
not in exist-
ence.

2. Subject to the limitations and provisions specified in this Act, no disposition of property by a Hindu, whether by transfer *inter vivos* or by will, shall be invalid by reason only that any person for whose benefit it may have been made was not in existence at the date of such disposition.

Limitations
and condi-
tions.

3. The limitations and provisions referred to in section 2 shall be the following, namely:—

(a) in respect of dispositions by transfer *inter vivos*, those contained in sections 13, 14 and 20 of the ¹Transfer of Property Act, 1882, IV of 1882. and

(b) in respect of dispositions by will, those contained in sections 100 and 101 of the ²Indian Succession Act, 1865.

X of 1865.

Failure of
prior
disposition.

4. Where a disposition of property fails by reason of any of the limitations referred to in section 3, any disposition intended to take effect after or upon failure of such prior disposition also fails.

Application
of this Act
to the Khoja
community.

5. Where the Governor General in Council is of opinion that the Khoja community in British India or any part thereof desire that the provisions of this Act should be extended to such community, he may, by notification in the Gazette of India, declare that the provisions of this Act, with the substitution of the word "Khojas" or "Khoja," as the case may be, for the word "Hindus" or "Hindu" wherever those words occur, shall apply to that community in such area as may be specified in the notification, and this Act shall thereupon have effect accordingly.

THE INLAND STEAM-VESSELS ACT, 1917 (I OF 1917).

C O N T E N T S .

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.

¹ Genl. Acts, Vol. III.

² Genl. Acts, Vol. I.

CHAPTER II.

SURVEY OF INLAND STEAM-VESSELS.

SECTIONS.

3. Inland steam-vessel not to proceed on voyage, or to be used for service without a certificate of survey.
4. Appointment of surveyors and places of survey.
5. Powers of surveyors.
6. Fees in respect of surveys.
7. Declaration of surveyor.
8. Sending of declaration by owner or master to Local Government.
9. Power for Local Government to grant or authorise the grant of certificates of survey.
10. Certificate of survey to be affixed in conspicuous part of steam-vessel.
11. Term of certificates of survey.
12. Renewal of certificates of survey.
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SCHEDULE I.—RATES OF FEES

SCHEDULE II.—ENACTMENTS REPEALED.

ACT No. 1 OF 1917.¹

[7th February, 1917.]

An Act to consolidate the enactments relating to Inland
Steam-vessels.

WHEREAS it is expedient to consolidate the enactments relating to inland steam-vessels ; It is hereby enacted as follows :—

¹ For Statement of Objects and Reasons, see Gazette of India, 1916, Pt. V, p. 71; and for Proceedings in Council, see *ibid*, 1916, Pt. VI, p. 541, and *ibid*, 1917, Pt. VI, p. 17.

CHAPTER I.

PRELIMINARY.

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Inland Steam-vessels Act, 1917.

(2) It extends, in the first instance, to the whole of British India, except the territories administered by the Governor of Fort St. George in Council, and

It shall come into force on such ¹ date as the Governor General in Council, by notification in the Gazette of India, may direct.

(3) The Governor of Fort St. George in Council may, at any time, by notification in the Fort St. George Gazette, extend this Act or any part thereof to the whole or any part of the territories under his administration; and the Act or part so extended shall come into force in such territories or part thereof on such date as may be specified in this behalf in such notification

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) “inland steam-vessel” means a steam-vessel which ordinarily plies on any inland water;

²(2) “inland water” means any canal, river, lake or other navigable water in British India;

(3) “passenger” includes any person carried in a steam-vessel other than the master and crew and the owner, his family and servants;

(4) “prescribed” means prescribed by any rule under this Act;

(5) “steam-vessel” means every description of vessel propelled wholly or in part by the agency of steam;

(6) “survey” means the survey of a steam-vessel under this Act;

(7) “surveyor” means a surveyor appointed under this Act; and

(8) “voyage” includes the plying of a steam-vessel at or about any place.

CHAPTER II.³

SURVEY OF INLAND STEAM-VESSELS.

Inland
steam-vessel
not to pro-
ceed on
voyage or to
be used for
service with-
out certificate
of survey.

3. (1) An inland steam-vessel shall not proceed on any voyage, or be used for any service unless she has a certificate of survey in force and applicable to such voyage or service.

(2) Nothing in this section shall apply to any steam-vessel⁴ proceeding on a voyage during the interval between the time at which her certificate of

¹ 1st June, 1917, see notification No. 6256-S, dated 1st June, 1917, Gazette of India 1917, Pt. I, p. 988

² For power to define how much of any tidal water shall be deemed to be an “inland water” see s. 70, *infra*

³ For power to exempt any class of vessels from the provisions of Chapter II or to modify that Chapter, see s. 68, *infra*.

⁴ As to tidal exemption of Government vessels, see s. 69, *infra*.

survey expires and the time at which it is first practicable to have the certificate renewed.

14. (1) The Local Government may, by notification in the local official Gazette,—

Appointment of surveyors and places of survey.

- (a) declare such places, within the territories under its administration, as it thinks fit, to be places of survey, and
- (b) appoint so many persons to be surveyors at the said places as it thinks fit, for the purposes of this Act.

(2) Every surveyor shall, for the purposes of any survey made by him, be deemed to be a public servant within the meaning of the Indian Penal Code.

Act XLV of 1860.

5. (1) For the purposes of a survey, the surveyor may, at any reasonable time, go on board any inland steam-vessel, and may inspect the steam-vessel and every part thereof, including the hull, boilers, engines and other machinery, and all equipments and articles on board :

Powers of surveyors.

Provided that he shall not unnecessarily hinder the loading or unloading of the steam-vessel, or unnecessarily detain or delay her from proceeding on any voyage.

(2) The owner, master and officers of the steam-vessel shall afford to the surveyor all reasonable facilities for a survey, and all such information respecting the steam-vessel, and her machinery or any part thereof, and all equipments and articles on board, as he may require for the purposes of a survey.

6 Before a survey is commenced, the owner or master of the steam-vessel to be surveyed shall pay to such officer as the Local Government may, by notification in the local official Gazette, appoint in this behalf—

Fees in respect of surveys.

- (a) a fee calculated on the tonnage of the steam-vessel according to the rates mentioned in Schedule I, or according to any other prescribed rates ; and
- (b) when the survey is to be made in any place of survey other than Calcutta, Madras, Bombay or Rangoon, such additional fee in respect of the expense (if any) of the journey of the surveyor to the place as the Local Government may by such notification direct.

7. When the survey of a steam-vessel is completed, if the surveyor making it is satisfied that—

Declaration of surveyor.

- (a) the hull, boilers, engines and other machinery of the steam-vessel

¹ For notifications under this section in—

- (a) Bombay, *see* Bom. R. and O.
- (b) Burma, *see* Inland Steam Vessels Act Manual.
- (c) Assam, *see* Assam R. and O.
- (d) Bengal, *see* Ben. R. and O.
- (e) United Provinces, *see* U. P. R. and O.

² Genl Acts, Vol I.

^{*} For officers appointed at places to receive fees in—

- (a) Bombay, *see* Bom. R. and O.
- (b) Burma, *see* Inland Steam Vessels Act Manual.
- (c) Bengal, *see* Ben. R. and O.

are sufficient for the voyage or service intended and in good condition, and

- (b) the equipments of the steam-vessel and the certificates of the master and engineer are such and in such condition as are required by any law for the time being in force and applicable to the steam-vessel,

the surveyor shall forthwith give to the owner or master a declaration in the prescribed form containing the particulars mentioned in clauses (a) and (b), and the following further particulars, namely :—

- (i) the time (if less than one year) for which the hull, boilers, engines and other machinery and equipments of the steam-vessel will be sufficient;
- (ii) the limit (if any) beyond which, as regards the hull, boilers, engines and other machinery or equipments, the steam-vessel is in the surveyor's judgment not fit to ply,
- (iii) the number of passengers (if any) which the steam-vessel is, in the judgment of the surveyor, fit to carry, specifying, if necessary, the respective numbers to be carried on the deck and in the cabins, and in different parts of the deck and cabins: the number to be subject to such conditions and variations, according to the time of year, the nature of the voyage, the cargo carried or other circumstances, as the case requires; and
- (iv) any other prescribed particulars

Sending of
declaration
by owner or
master to
Local
Government.

8. (1) The owner or master of a steam-vessel to whom a declaration is given under section 7 shall, within fourteen days after the date of the receipt thereof, send the declaration to such officer as the Local Government may, by notification in the local official Gazette, appoint in this behalf.¹

(2) If any owner or master fails to send a declaration as required by sub-section (1), he shall forfeit a sum not exceeding five rupees for every day during which the sending of the declaration is delayed.

Power for
Local
Government
to grant or
authorise the
grant of
certificates of
survey.

9. (1) The Local Government shall, if satisfied that all the provisions of this Act have been complied with in respect of a declaration sent under section 8, cause,—

- (a) a certificate of survey, in duplicate, to be prepared, and
- (b) notice thereof to be given by post or otherwise to the owner or master of the steam-vessel to which the certificate relates.

(2) On application made by the owner or master to such officer at the place of survey as the Local Government may, by notification² in the local official Gazette, appoint in this behalf, and on payment to such officer by the

¹ For notifications making such appointments in Bengal, see Ben. R. and O.

² For notifications appointing officers in—

- (a) Bombay, see Bom. R. and O.
- (b) Bengal, see Ben. R. and O.
- (c) Burma, see Inland Steam Vessels Act Manual.
- (d) Assam, see Assam R. and O.

owner or master of the sum (if any) forfeited by him under section 8, sub-section (2), (the actual amount of which within the limit thereby fixed shall be determined by the Local Government), the certificate, in duplicate, so prepared shall be granted to the owner or master by the Local Government and issued to him through such officer.

(3) A certificate granted under this section shall be in the prescribed form, shall contain a statement to the effect that all the provisions of this Act with respect to the survey of the steam-vessel and the declaration of survey have been complied with, and shall set forth—

(a) the particulars concerning the steam-vessel mentioned in the declaration of survey as required by clauses (i), (ii) and (iii) of section 7, and

(b) any other prescribed particulars.

(4) The Local Government may, by notification¹ in the local official Gazette, delegate to any person all or any of the functions assigned to the Local Government under this section.

Provided that no delegation shall be made under sub-section (2) so as to authorise the grant of a certificate of survey by the surveyor who made the declaration of survey under section 7.

10. The owner or master of every steam-vessel, for which a certificate of survey has been granted, shall forthwith, on the receipt of the certificate, cause one of the duplicates thereof to be affixed and kept affixed so long as it remains in force and the steam-vessel is in use, on some conspicuous part of the steam-vessel where it may be easily read by all persons on board.

Certificate of survey to be affixed in conspicuous part of steam-vessel.

11. A certificate of survey shall not be in force—

Term of certificates of survey.

(a) after the expiration of one year from the date thereof ; or

(b) after the expiration of the period (if less than one year) for which the hull, boilers, engines or other machinery, or any of the equipments of the steam-vessel to which the certificate relates have been stated in the certificate to be sufficient ; or

(c) after notice has been given by any Local Government, to the owner or master of such steam-vessel, that such Local Government has cancelled or suspended it.

12. After a certificate of survey has ceased to be in force, the same shall be renewed after a fresh survey of the steam-vessel to which the certificate relates, has been held in accordance with the provisions of this Chapter save so far as any relaxation thereof may be prescribed.

Renewal of certificates of survey.

¹ For list of officers to whom powers have been delegated in—

(a) Bombay, *see* Bom. R. and O.

(b) Burma, *see* Inland Steam Vessels Act Manual.

(c) Bengal, *see* Ben. R. and O.

Power for
Local
Government
to suspend
or cancel
certificate of
survey.

13. A certificate of survey may be suspended or cancelled by any Local Government if it has reason to believe—

- (a) that the declaration by the surveyor of the sufficiency and good condition of the hull, boilers, engines or other machinery or of any of the equipments of the steam-vessel has been fraudulently or erroneously made; or
- (b) that the certificate has otherwise been granted upon false or erroneous information; or
- (c) that since the making of the declaration the hull, boilers, engines or other machinery, or any of the equipments of the steam-vessel have sustained any material injury, or have otherwise become insufficient.

Power for
Local
Government
to require
delivery of
expired or
cancelled
certificate

14. The Local Government may require any certificate of survey, which has expired or has been suspended or cancelled, to be delivered up to such officer as the Local Government may, by notification¹ in the local official Gazette, appoint in this behalf.

Report of
suspension or
cancellation
of certain
certificates.

15. If the Local Government, which suspends or cancels a certificate of survey, is not the Local Government which (or whose delegate) granted the certificate, the Local Government suspending or cancelling the certificate shall report the fact of suspension or cancellation, together with the reasons therefor, to the Local Government which (or whose delegate) granted the certificate.

Power for
Local
Government
to direct
survey by
two
surveyors.

16. A survey shall ordinarily be made by one surveyor, but two surveyors may be employed if the Local Government, by² order in writing, so directs either generally in the case of all steam-vessels at any place of survey, or specially in the case of any particular steam-vessel or class of steam-vessels at any such place.

Power for
Local
Government
to order a
second
survey.

17. (1) If the surveyor making a survey of a steam-vessel refuses to give a declaration under section 7 with regard to the steam-vessel, or gives a declaration with which the owner or master of the steam-vessel is dissatisfied, the Local Government may, on the application of the owner or master, and the payment by him of such fee, not exceeding twice the amount of the fee payable for the previous survey, as the Local Government may require, direct two other surveyors to survey the steam-vessel.

(2) The surveyors so directed shall forthwith survey the steam-vessel, and may, after the survey, either refuse to give a declaration or give such declaration as, under the circumstances, seems to them proper.

¹ For notifications appointing such officers in—

(a) *Bor by see Bom. R. and O.*

(b) *Bengal, see Ben. R. and O.*

(c) *Burma, see Inland Steam Vessels Act Manual.*

² For such orders issued for—

(a) *Bombay, see Bom. R. and O.*

(b) *Burma, see Inland Steam Vessels Act Manual.*

(3) Any declaration given, or any refusal to give a declaration under subsection (2), shall be final.

18. When a survey is made by two surveyors under either section 16 or section 17, each of the surveyors shall perform the prescribed portion of the duties assigned to a surveyor under this Act or the rules made there-
Division of duties when two surveyors employed.
 under.

19. (1) The Local Government may, with the previous sanction of the Governor General in Council, make ¹ rules to regulate the making of surveys.

Power for Local Government to make rules as to surveys.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

- (a) the times and places at which, and the manner in which, surveys are to be made ;
- (b) the duties of the surveyor making a survey and, where two surveyors are employed, the respective duties of each such surveyor ;
- (c) the form in which declarations of survey and certificates of survey are to be framed, and the nature of the particulars to be stated therein under sections 7 and 9 ;
- (d) the rates other than those mentioned in Schedule I according to which the fees payable in respect of surveys are to be calculated in the case of all or any of the places of survey within the territories under its administration ; and
- (e) the cases in, and the extent to, which a survey may be dispensed with before the grant of a new certificate.

CHAPTER III.

MASTERS [INCLUDING SERANGS] AND ENGINEERS [INCLUDING ENGINE-DRIVERS] OF INLAND STEAM-VESSELS.

20. The Local Government may appoint ² examiners for the purpose of examining the qualifications of persons desirous of obtaining certificates (hereinafter called certificates of competency), to the effect that they are competent to act as masters or serangs, or as engineers or engine-drivers, as the case may be, on board inland steam-vessels.

Appointment of examiners.

21. (1) The Local Government or such officer as it may, by notification in the local official Gazette, appoint in this behalf, shall grant to every person who is reported by the examiners to possess the prescribed qualifications, a certificate of competency to the effect that he is competent to act as a first-

Grant of masters', serangs', engineers' and engine-drivers' certificates of competency.

¹ For rules regulating surveys in—

(a) Bengal, *see* Ben. R. and O.
 (b) Bombay, *see* Bom. R. and O.
 (c) Burma, *see* Inland Steam Vessels Act Manual.
 (d) Assam, *see* Assam R. and O.

² For persons appointed examiners in Bengal and Bombay, *see* the Ben. R. and O. and Bom. R. and O.

class master, second-class master or *serang*, or as an engineer, first-class engine-driver or second-class engine-driver, as the case may be, on board an inland steam-vessel :

Provided nevertheless that, before granting a certificate of competency under this Act, the authority empowered to grant such certificate may, if it considers the report of the examiners regarding any applicant for such certificate to be defective, or has reason to believe that such report has been unduly made, require a further examination or a re-examination of the applicant.

(2) Every certificate granted under this section shall be in the prescribed form.

Grant of masters', *serangs*', engineers' and engine-drivers' certificates of service.

22. (1) The Local Government may, in its discretion, grant without examination to any person who has served as a master or as an engineer, of an inland steam-vessel before the first day of April, 1890, a certificate (hereinafter called a certificate of service) to the effect that he is, by reason of his having so served, competent to act as a first-class master, second-class master or *serang*, or as an engineer, first-class engine-driver or second-class engine-driver, as the case may be, on board an inland steam-vessel.

(2) A certificate of service so granted shall have the same effect as a certificate of competency granted under this Act after examination.

Certificates to be made in duplicate

23. Every certificate of competency or service granted under this Act shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded in the prescribed manner.

Copy of certificate to be granted in certain cases.

24. Whenever a master or *serang*, or an engineer or engine-driver, proves, to the satisfaction of the authority which granted his certificate, that he has, without fault on his part, lost or been deprived of it, a copy of the certificate to which, according to the record kept under section 23, he appears to be entitled shall be granted to him, and shall have the same effect as the original.

Certificates to be held by master and engineer of vessel of eighty or more horse-power.

25. An inland steam-vessel having engines of eighty or more nominal horse-power shall not proceed on any voyage unless she has—

(a) as her master a person possessing a first-class master's certificate granted under this Act, or a master's certificate granted under the

¹Indian Merchant Shipping Act, 1859, or granted under, or ¹ of 1859. continued in force by, the ²Merchant Shipping Act, 1894, and ^{57 & 58} Vict., c. 60.

¹ Genl. Acts, Vol. I.

² Coll. of Stat., Vol. II.

VII of 1884.
57 & 58
Vict., c. 60.

- (b) as her engineer a person possessing an engineer's certificate granted under this Act, or the ¹ Indian Steamships Act, 1884, or granted under, or continued in force by, the ² Merchant Shipping Act, 1894.

26. An inland steam-vessel having engines of thirty or more nominal horse-power, but of less than eighty nominal horse-power, shall not proceed on any voyage unless she has—

Certificates to be held by master and engineer of vessel of between thirty and eighty horse-power.

- (a) as her master a person possessing a second-class master's certificate granted under this Act, or any certificate referred to in clause (a) of section 25, and

VII of 1884

- (b) as her engineer a person possessing a first-class engine-driver's certificate granted under this Act, or an engine-driver's certificate granted under the ¹ Indian Steamships Act, 1884, or any certificate referred to in clause (b) of section 25 :

Provided that a steam-vessel shall be deemed to have complied with this section if she has as her master and engineer a person possessing both a certificate referred to in clause (a), and a certificate referred to in clause (b) of this section.

27. An inland steam-vessel having engines of less than thirty nominal horse-power shall not proceed on any voyage unless she has—

Certificates to be held by master and engineer of vessel of less than thirty horse-power.

- (a) as her master a person possessing a searang's certificate granted under this Act, or any certificate referred to in clause (a) of section 26, and

- (b) as her engineer a person possessing a second-class engine driver's certificate granted under this Act, or any certificate referred to in clause (b) of section 26 :

Provided that a steam-vessel shall be deemed to have complied with this section if she has as her master and engineer a person possessing both a certificate referred to in clause (a), and a certificate referred to in clause (b) of this section.

28. Notwithstanding anything in this Chapter, the Local Government may, by general or special order,³ direct that a person possessing—

Power for Local Government to require master or engineer to hold certificate granted under Act in addition to other certificate.

I of 1859.

- (a) a master's certificate granted under the ¹ Indian Merchant Shipping Act, 1859, or granted under, or continued in force by, the ² Merchant Shipping Act, 1894, or

57 & 58
Vict., c. 60.

- (b) an engineer's or engine-driver's certificate granted under the ¹ Indian Steamships Act, 1884, or an engineer's certificate granted under, or continued in force by, the ² Merchant Shipping Act, 1894,

VII of 1884.

57 & 58
Vict., c. 60.

¹ Genl. Acts, Vol. III.

² Coll. of Stat., Vol. II.

³ For such an order, *see* Burma R. M.

⁴ Genl. Acts, Vol. I.

shall not act as master or engineer, as the case may be, of an inland steam-vessel unless he also possesses—

- (i) in case (a), such a master's or serang's certificate granted under this Act as qualifies him under this Chapter to act as master of the steam-vessel, or
- (ii) in case (b), such an engineer's or engine-driver's certificate granted under this Act as qualifies him under this Chapter to act as engineer of the steam-vessel :

Provided that, for the purposes of this section, the Local Government may, in its discretion, grant¹ to any person, without examination, a master's or serang's or an engineer's or engine-driver's certificate of competency under this Act, and such certificate shall have the same effect as a certificate of competency granted under this Act after examination.

Power for
Local Gov-
ernment to
make rules
as to grant of
certificates of
competency

29. (1) The Local Government may, with the previous sanction of the Governor General in Council, make rules² to regulate the granting of certificates of competency under this Chapter.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

- (a) the times and places of holding and the mode of conducting examination of persons desirous of obtaining certificates of competency ;
- (b) the qualifications to be required of persons desirous of obtaining such certificates ;
- (c) the examination fees to be paid by such persons, and
- (d) the forms in which such certificates are to be framed, and the authority by whom, and the manner in which, copies are to be kept and recorded under section 23

Power for
Local Gov-
ernment to
make rules
as to grant of
certificates of
service.

30. The Local Government may also make rules² to regulate the granting of certificates of service under section 22, and may by such rules prescribe in particular—

- (a) the fees to be paid for such certificates, and
- (b) the forms in which such certificates are to be framed, and the authority by whom, and the manner in which, copies are to be kept and recorded under section 23.

Area in
which cer-
tificates of
competency
or service
shall have
effect.

31. Certificates of competency or service granted under this Chapter shall have effect as follows, namely :—

- (i) A certificate of competency or service as engineer or engine-driver shall have effect throughout British India

¹ For grant of certificate without examination, *see* Dom. R. and O.

² For rules regulating the grant of certificates in—

(a) Bengal. *see* Ben. R. and O.

(b) Burma. *see* Inland Steam Vessels Act Manual.

- (ii) A certificate of competency or service as master or serang shall have effect throughout the province in which it was granted :

Provided that the authority granting such certificate may, by endorsement thereon, restrict the effect of such certificate to any part of such province ;

Provided further that such certificate may be endorsed by the Local Government of any other province, or with the general or special sanction of the Local Government of such other province, by the authority granting it so as to have effect in such other province or any part thereof, and thereupon shall have effect accordingly.

CHAPTER IV.

INVESTIGATION INTO CASUALTIES.

32. Whenever—

- (a) any inland steam-vessel has been wrecked, abandoned or materially damaged ; or
- (b) by reason of any casualty happening to, or on board of, any inland steam-vessel, loss of life has ensued ; or
- (c) any inland steam-vessel has caused loss or material damage to any other vessel,

Report of casualties to be made to nearest police-station.

the master of the steam-vessel shall forthwith give notice of the wreck, abandonment, damage, casualty, or loss to the officer in charge of the nearest police-station.

33. (1) If a formal investigation into the facts of any case reported under section 32 appears to the Local Government to be expedient, the Local Government may—

- (a) appoint a special Court and direct the Court to make the investigation at such place as the Local Government may fix in this behalf ; or
- (b) direct any principal Court of ordinary criminal jurisdiction or the Court of any District Magistrate to make the investigation.

Power for Local Government to appoint Court of investigation.

(2) A special Court appointed under clause (a) of sub-section (1) shall consist of not less than two nor more than four persons, of whom one shall be a Magistrate, one shall be a person conversant with maritime affairs or with the navigation of inland steam-vessels, and the other or others (if any) shall be conversant with either maritime or mercantile affairs, or with the navigation of inland steam-vessels.

34. (1) Any Court making an investigation under section 33 may inquire into any charge of incompetency or misconduct arising in the course of the investigation against any master, engineer or engine-driver, or any person holding

Power of Court of investigation to inquire

into charges of incompetency or misconduct, a certificate granted under Chapter III, as well as into any charge of a wrongful act or default on his part causing any wreck, abandonment, damage, casualty, or loss referred to in section 32.

(2) In every case in which any such charge arises against any master, engineer or engine-driver, or any person holding a certificate granted under Chapter III in the course of an investigation, the Court shall, before the commencement of the inquiry into the charge, cause to be furnished to him a copy of the report or of any statement of the case upon which the investigation has been directed.

Power for Local Government to direct investigation otherwise than under section 33.

35. (1) If the Local Government has reason to believe that there are grounds for charging any master, engineer or engine-driver, or any person holding a certificate granted under Chapter III, with incompetency or misconduct, otherwise than in the course of an investigation under section 33, it may send a statement of the case to the principal Court of ordinary criminal jurisdiction, or the Court of the District Magistrate, at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and may direct the Court to make an investigation into the charge.

(2) Before commencing an investigation under sub-section (1), the Court shall cause the person charged to be furnished with a copy of the statement of the case sent by the Local Government.

Person charged to be heard.

36. For the purpose of an investigation under this Chapter into any charge against a master, engineer or engine-driver, or any person holding a certificate granted under Chapter III, the Court may summon him to appear, and shall give him full opportunity of making a defence, either in person or otherwise.

Assessors.

37. (1) When, in the opinion of the Court making an investigation under this Chapter, the investigation involves, or appears likely to involve, any question as to the cancelling or suspension of the certificate of a master, engineer or engine-driver, or any person holding a certificate granted under Chapter III, the Court shall appoint as its assessors, for the purposes of the investigation, two persons having experience in the Merchant service or in the navigation of inland steam-vessels.

(2) In every other investigation the Court may, if it thinks fit, appoint as its assessor, for the purposes of the investigation, any person conversant with maritime affairs or the navigation of inland steam-vessels and willing to act as assessor.

(3) Every person appointed as an assessor under this section shall attend during the investigation and deliver his opinion in writing, to be recorded on the proceedings.

Powers of Court as to evidence and

38. For the purpose of any investigation under this Chapter, the Court making the investigation shall, so far as relates to compelling the attendance

and examination of witnesses, and the production of documents and the regulation of the proceedings, have—

- (a) if the Court is a special Court—the same powers as are exercisable by the principal Court of ordinary criminal jurisdiction for the place at which the investigation is made ; or
- (b) if the Court is a principal Court of ordinary criminal jurisdiction or the Court of the District Magistrate—the same powers as are exercisable respectively by either Court in the exercise of its criminal jurisdiction.

39. (1) If any Court making an investigation under this Chapter issues a warrant of arrest to compel the attendance of any person whose evidence is in its opinion necessary, it may, for the purpose of effecting the arrest, but subject to any general or special instruction issued by the Local Government in this behalf, authorise any to enter any vessel.

Power of Court to effect arrest of witnesses by entry and detention of vessels.

(2) An officer so authorized to enter any vessel may, for the purpose of enforcing the entry, call to his aid any officers of Police or Customs, or any other persons, and may seize and detain the vessel for such time as is reasonably necessary to effect the arrest; and every such officer or other person shall be deemed to be a public servant within the meaning of the ¹Indian

Act XLV of 1860, Penal Code.

(3) No person shall be detained under this section for more than forty-eight hours.

40. Whenever, in the course of an investigation under this Chapter, it appears to the Court making the investigation that any person has committed, within British India, an offence punishable under any law in force in British India, the Court making the investigation may (subject to such rules consistent with this Act as the High Court may, from time to time, make in this behalf)—

Power of Court to commit for trial and to bind over witnesses.

- (a) cause such person to be arrested ;
- (b) commit him or hold him to bail to take his trial before the proper Court ;
- (c) bind over any other person to give evidence at such trial : and
- (d) exercise, for the purposes of this section, all the powers of a Magistrate of the first class or of a Presidency Magistrate.

41. (1) Whenever, in the course of a trial referred to in section 40, the evidence of any witness is required in relation to the subject-matter, any

¹ Genl. Acts, Vol. I.

deposition previously made by him in relation to the same subject-matter before any Court making an investigation under this Chapter shall, if authenticated by the signature of the Magistrate or presiding Judge of such Court, be admissible in evidence on proof—

(a) that the witness cannot be found within the jurisdiction of the Court before which the trial is held ; and

(b) that the deposition was made in the presence of the person accused, and that he had an opportunity of cross-examining the witness.

(2) A certificate signed by such Magistrate or presiding Judge that the deposition was made in the presence of the accused, and that he had an opportunity of cross-examining the witness shall, unless the contrary be proved, be sufficient evidence that it was so made and that the accused had such opportunity.

Report by
Court to
Local
Government,

42. The Court shall, in the case of every investigation under this Chapter, transmit to the Local Government a full report of the conclusions at which it has arrived, together with the evidence recorded and the written opinion of any assessor.

Court to ex-
ercise its
powers inde-
pendently
of the asses-
sors.

43. Notwithstanding the appointment under section 37 of an assessor or assessors by a Court making an investigation under this Chapter, the exercise of all powers conferred on such Court by this Act shall rest with the Court alone.

Power for
Local
Government
to direct in-
vestigations
into causes
of explosions
on steam-
vessels.

44. (1) Whenever any explosion occurs on board any inland steam-vessel, the Local Government may direct that an investigation into the cause of the explosion be made by such person or persons as it may appoint in this behalf.

(2) The person or persons so appointed may, for the purpose of the investigation, enter into and upon the steam-vessel, with all necessary workmen and labourers, and remove any portion of the steam-vessel or of the machinery thereof, and shall report to the Local Government what, in his or their opinion, was the cause of the explosion.

(3) Every person making an investigation under this section shall be deemed to be a public servant within the meaning of the ¹Indian Penal Code. Act XLV of 1860.

CHAPTER V.

SUSPENSION AND CANCELLATION OF CERTIFICATES GRANTED UNDER THE ACT.

Power for
Local Gov-
ernment to

45. Any certificate granted under Chapter III may be suspended or cancelled by the Local Government by which, or under authority from which,

¹ Genl. Acts, Vol. I.

it was granted, or by any other Local Government in the following cases, suspend or cancel certificates in certain cases.
namely :—

- (a) if, on any investigation made under this Act, the Court reports that the wreck or abandonment of, or loss or damage to, any vessel, or loss of life, has been caused by the wrongful act or default of the holder of such certificate, or that the holder of such certificate is incompetent, or has been guilty of any gross act of drunkenness, tyranny or other misconduct ; or
- (b) if the holder of such certificate is proved to have been convicted of any non-bailable offence ; or
- (c) if, in the case of a person holding a certificate of competency or service as second-class master or serang, or as engine-driver, such person is or has become, in the opinion of the Local Government, unfit to act as a second-class master or serang, or as an engine-driver, as the case may be :

Provided that a certificate shall not be suspended or cancelled under clause (a), unless the Local Government is satisfied that the holder of the certificate has, before the commencement of the investigation, been furnished with a copy of the report or statement of the case as required by section 34 or section 35, as the case may be.

46. Every person whose certificate is suspended or cancelled under this Chapter shall deliver it up to such person as the Local Government which suspended or cancelled it may direct.¹

47. If the Local Government which suspends or cancels a certificate under this Chapter is not the Local Government by which, or under authority from which, such certificate was granted, the Local Government so suspending or cancelling the certificate shall report the proceedings, and the fact of suspension or cancellation to the Local Government by which, or under authority from which, such certificate was granted.

48. (1) Any Local Government may, at any time, revoke any order of suspension or cancellation which it may have made under this Chapter, or grant, without examination, to any person whose certificate it has so cancelled, a new certificate.

(2) A certificate so granted shall have the same effect as a certificate of competency granted under this Act after examination.

¹ For such direction in—

Bombay, *see* Bom. R. and O.

Bengal, *see* Ben. R. and O.

Burma, *see* Inland Steam Vessels Act Manual.

CHAPTER VI.

PROTECTION OF, AND CARRIAGE OF PASSENGERS IN, INLAND STEAM-VESSELS.

Power for
Governor
General in
Council to
declare
dangerous
goods.
Carriage of
dangerous
goods.

49. The Governor General in Council may, by notification¹ in the Gazette of India, declare what shall, for the purposes of this Act, be deemed to be dangerous goods.

50. (1) No person shall—

- (a) take with him on board an inland steam-vessel any dangerous goods without giving notice of their nature to the owner or master of the steam-vessel ; or
- (b) deliver or tender for carriage on such steam-vessel any dangerous goods without giving such notice, and without distinctly marking their nature on the outside of the package containing the goods.

(2) If the owner or master of an inland steam-vessel suspects, or has reason to believe, that any luggage or parcel taken, delivered, or tendered for carriage on the steam-vessel contains dangerous goods, he may—

- (i) refuse to carry it upon the steam-vessel ; or
- (ii) require it to be opened to ascertain the nature of its contents ; or
- (iii) if it has been received for carriage, stop its transit until he is satisfied as to the nature of its contents.

Power of
owner or
master of
steam-vessel
to throw
overboard
dangerous
goods.

51. Where any dangerous goods have been taken or delivered on board any inland steam-vessel in contravention of section 50, the owner or master of the steam-vessel may, if he thinks fit, cause the goods to be thrown overboard, together with any package or receptacle in which they are contained, and neither the owner nor the master shall, in respect of his having so caused the goods to be thrown overboard, be subject to any liability, civil or criminal, in any Court.

Power for
Local
Government
to make rules
for protection
of inland
steam-vessels
from
accidents.

52. (1) The Local Government may make rules² for the protection of inland steam-vessels against explosion, fire, collision and other accidents.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) prescribe the conditions on, and subject to, which dangerous goods may be carried on board inland steam-vessel ;
- (b) prescribe precautions to be taken to prevent explosions or fires on board inland steam-vessels ;

¹ For notification declaring certain articles to be dangerous goods, see List of Gen. R. and O.

² For such rules in—

Bengal, see Ben. R. and O.

Bombay, see Bom. R. and O.

Burma, see Inland Steam Vessels Act Manual.

Assam, see Assam R. and O.

- (c) prescribe the apparatus which is to be kept on board inland steam-vessels, for the purpose of extinguishing fires ;
- (d) regulate the making of sound signals ;
- (e) regulate the carriage and exhibition of lights by inland steam-vessels ;
- (f) regulate the carriage and exhibition of lights by other vessels on specified inland waters on which steam-vessels ply ;
- (g) prescribe the steering rules to be observed ;
- (h) regulate the towing of vessels astern or alongside ;
- (i) prescribe the speed at which inland steam-vessels may be navigated in specified areas ; and
- (j) regulate the navigation of inland steam-vessels to prevent danger to other vessels, or to the banks, channels, navigation marks or any property, moveable or immoveable, in or abutting on navigable channels.

(3) Any rule made under this section may contain a provision that any person committing a breach of it shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

53. (1) The Local Government may make ¹rules to regulate the carriage of passengers in inland steam-vessels.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) prescribe the cases in which passengers may be refused admission to, or may be required to leave, inland steam-vessels ;
- (b) provide for the payment of fares, and the exhibition of tickets or receipts (if any) showing the payment of their fares, by passengers in inland steam-vessels ; and
- (c) regulate generally the conduct of passengers in inland steam-vessels.

(3) Any rule made under this section may contain a provision that any person committing a breach of it shall be punishable with fine which may extend to twenty rupees.

(4) The master or any other officer of an inland steam-vessel, and any person called by him to his assistance, may arrest any person who has committed a breach of any rule made under this section, if the name and address of such person are unknown to the master or such other officer.

Act V of 1898. (5) The procedure prescribed by section 59 of the ²Code of Criminal

Power for
Local
Government
to make rules
as to carriage
of passengers
in inland
steam-vessel.

¹ For rules for carriage and protection of passengers in Inland Steam-vessels in—
Bengal, see Ben. R. and O.
Bombay, see Bom. R. and O.
Burma, see Inland Steam Vessels Act Manual.
Assam, see Assam R. and O.

² Genl. Acts, Vol. V.

Procedure, 1898, in the case of arrest by private persons shall apply to every arrest made under this section.

Power for Local Government to make rules for protection of passengers.

54. (1) [The Local Government may also make rules¹ for the protection of passengers in inland steam-vessels, and may by such rules require—

(a) the prices of passenger tickets to be printed or otherwise denoted on such tickets; and

(b) the supply, free of charge, of a sufficient quantity of fresh water for the use of such passengers.

(2) Any rule made under this section may contain a provision that any person committing a breach of it shall be punishable with fine which may extend to fifty rupees.

CHAPTER VII.

PENALTIES AND LEGAL PROCEEDINGS.

Penalty for making voyage without certificate of survey.

55. (1) If any inland steam-vessel proceeds on a voyage in contravention of section 3, the owner and the master of the steam-vessel shall each be punishable with fine, which may extend to one thousand rupees.

(2) If the master or any other officer on board an inland steam-vessel which proceeds on a voyage in contravention of section 3 is a licensed pilot he shall be liable to have his license as a pilot suspended or cancelled, for any period, by the Local Government.

Penalty for neglect to affix certificate of survey in inland steam-vessel.

56. If the certificate of survey is not kept affixed in an inland steam-vessel as required by section 10, the owner and the master of the steam-vessel shall each be punishable with fine which may extend to one hundred rupees.

Penalty for neglect or refusal to deliver up certificate of survey.

57. If the owner or master of an inland steam-vessel, without reasonable cause, neglects or refuses to deliver up a certificate of survey when required under section 14 so to do, he shall be punishable with fine which may extend to one hundred rupees.

Penalty for carrying excessive number of passengers on board.

58. If an inland steam-vessel has on board or in any part thereof a number of passengers which is greater than the number set forth in the certificate of survey as the number of passengers which the vessel or the part thereof is, in the judgment of the surveyor, fit to carry, the owner and the master shall each be punishable with fine which may extend to ten rupees for every passenger over and above that number.

Penalty for serving or engaging a person to serve as master or engine-

59. If any person—

(a) proceeds on any voyage in an inland steam-vessel as the master or engineer of such vessel without being at the time entitled to, and possessed of, a master's or serang's or an engineer's or

¹ See footnote to s. 53 *supra*.

engine-driver's certificate, as the case may be, as required under neer without
this Act ; or certificate.

- (b) employs as the master or engineer of an inland steam-vessel any person without ascertaining that he is at the time entitled to, and possessed of, such certificate,

he shall be punishable with fine which may extend to five hundred rupees.

60. If any master wilfully fails to give notice, as required by section 32, of any wreck, abandonment, damage, casualty, or loss, he shall be punishable with fine which may extend to five hundred rupees, and, in default of payment of such fine, with simple imprisonment for a term which may extend to three months.

61. If any person, whose certificate is suspended or cancelled under this Act, fails to deliver up the certificate as required by section 46, he shall be punishable with fine, which may extend to five hundred rupees.

62. If any person, in contravention of section 50, takes with him on board any inland steam-vessel any dangerous goods, or delivers or tenders any such goods for carriage on any inland steam-vessel, he shall be punishable with fine which may extend to two hundred rupees, and the goods shall be forfeited to Government.

63. If any person employed or engaged in any capacity on board an inland steam-vessel, by wilful breach or by neglect of duty, or by reason of drunkenness—

- (a) does any act tending immediately to wreck, destroy or materially damage the vessel, or to endanger the life or limb of any person on board, or belonging to the vessel ; or

- (b) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the vessel from immediate wreck, destruction or material damage, or for preserving any such person from immediate danger to life or limb,

he shall be punishable with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to two years, or with both.

64. Where the owner or master of an inland steam-vessel is convicted of an offence under this Act or any rule made thereunder committed on board, or in relation to, that steam-vessel, and is sentenced to pay a fine, the Magistrate who passes the sentence may direct the amount of the fine to be levied by distress and sale of the steam-vessel and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

- Jurisdiction of Magistrates.** 65. Except in the case of an offence against any rule made under section 53, no Magistrate shall try an offence under this Act, or any rule made thereunder, unless he is a Presidency Magistrate, or a Magistrate whose powers are not less than those of a Magistrate of the first class.
- Place of trial.** 66. If any person commits an offence against this Act or any rule made thereunder, he shall be triable for the offence in any place in which he may be found or which the Local Government, by notification¹ in the local official Gazette, appoints in this behalf, or in any other place in which he might be tried under any other enactment for the time being in force.

CHAPTER VIII.

SUPPLEMENTAL.

- Power for Local Government to make general rules** 67. (1) The Local Government may make rules to carry out the purposes of this Act not otherwise specially provided for.
(2) Any rule made under this section may contain a provision that any person committing a breach of it shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

- Power for Local Government to modify application of Act to certain inland steam-vessels.** 68. The Local Government may, with the previous sanction of the Governor General in Council, by notification² in the local official Gazette, declare that all or any of the provisions of Chapters II and III shall not apply in the case of any specified class of steam-vessels, or shall apply to them with such modifications as may be specified in the notification.

- Exemption of His Majesty's and Government vessels.** 69. Save in so far as the Governor General in Council may, by ³notification in the Gazette of India otherwise direct, nothing in this Act, or any rule made thereunder, shall apply to any inland steam-vessel belonging to, or in the service of, His Majesty or the Government of India.

- Power for Local Government to define tidal water.** 70. The Local Government may, by notification in the local official Gazette, define how much of any tidal water ⁴ shall be deemed to be an inland water for the purposes of this Act.

- Fees recoverable as fines.** 71. All fees payable under this Act may be recovered as fines under this Act.

- Certificated masters of inland steam-vessels to be deemed pilots under** 72. (1) Subject to the provisions of section 31, every master of an inland steam-vessel who possesses a master's certificate granted under this Act and in force shall, in ports to which section 31 of the Indian Ports Act, XV of 1908.

¹ For notification appointing place of trial in Bengal, see Ben. R. and O., in Burma, see Inland Steam Vessels Act Manual.

² For such notifications, see Ben. R. and O., Bom. R. and O., Burma Inland Steam Vessels Act Manual, Assam R. and O.

³ For such notification, see List of Gen. R. and O.

⁴ For notifications defining tidal water, see Ben. R. and O., Bom. R. and O. and Bur. Inland Steam Vessels Act Manual.

1908, has been extended, be deemed, for the purposes of that section, to be the pilot of the steam-vessel of which he is in charge.

section 31
of Act XV
of 1908.

(2) Nothing in this section shall be deemed to affect the provisions of Bombay Act I of 1863 (*An Act for the registry of vessels and levy of pilotage fees on the river Indus*), which require persons in charge of vessels passing through any of the channels or tidal channels at the mouths of the river Indus to pay fees for pilotage.

73. The provisions of this Act shall also apply to all vessels which ordinarily ply on inland waters and are propelled by electricity or other mechanical power (except steam) :

Application
of Act to
vessels pro-
pelled by
electricity
or other
mechanical
power.

Provided that the Governor General in Council may, by notification in the Gazette of India, declare that any provision of this Act shall, in its application under this section to such vessels, be subject to such modifications, for the purposes of adaptation, as may be specified in the notification.

74. (1) The power to make rules conferred on a Local Government by this Act is subject to the condition of the rules being made after previous publication.

Publication
of rules.

(2) All such rules shall, when made, be published in the local official Gazette, and shall thereupon have effect as if enacted in this Act.

75. The enactments mentioned in Schedule II are repealed to the extent specified in the fourth column thereof :

Repeals and
savings.

Provided that all declarations, investigations and surveys made and certificates granted, suspended or cancelled under any of those enactments shall be deemed to have been respectively made, granted, suspended or cancelled under this Act.

SCHEDULE I.

RATES OF FEES.

[See sections 6 (a) and 19 (d).]

| | Tons. | Rs. |
|--|-------|-----|
| For steam-vessels of less than | 100 | 25 |
| „ „ 100 tons and up to | 200 | 40 |
| „ „ 200 „ „ „ | 350 | 50 |
| „ „ 350 „ „ „ | 700 | 60 |
| „ „ 700 „ „ „ | 1,000 | 80 |
| „ „ 1,000 „ „ „ | 1,500 | 100 |
| „ „ 1,500 „ and upwards | „ | 120 |

SCHEDULE II.

ENACTMENTS REPEALED.

(See section 75.)

| Year. | No. | Short title. | Extent of repeal. |
|----------|------|--|---|
| 1884 . . | VI | The Inland Steam-vessels Act, 1884. | So much as is unrepealed |
| 1890 . . | III | The Inland Steam-ships Law Amendment Act, 1890 | In the title the figures and word "VI and". In the preamble the words and figures "the Inland Steam-vessels Act, 1884, and". The heading " <i>Inland Steam-vessels Act, 1884</i> " before section 1. Sections 1, 2, 4 (so much as is unrepealed), 6, 7, 8, 12, 13 and 14. |
| 1891 . . | XII | The Amending Act, 1891 | In the Second Schedule, Part I, the entries relating to Act VI of 1884, and Act III of 1890. |
| " . . | XIII | The Inland Steam-vessels Act (1884) Amendment Act, 1891. | So much as is unrepealed. |
| 1897 . . | XIV | The Indian Short Titles Act, 1897. | In the Schedule, the entry relating to Act XIII of 1891. |
| 1899 . . | VII | The Inland Steam-vessels Act (1884) Amendment Act, 1899. | So much as is unrepealed. |
| 1900 . . | VI | The Lower Burma Courts Act, 1900. | In the Second Schedule, the entry relating to Act VI of 1884. |
| 1909 . . | I | The Indian Steam-ships Law Amendment Act, 1909. | In the title and the preamble the words "the Inland Steam-vessels Act, 1884, and". The heading " <i>The Inland Steam-vessels Act 1884</i> " before section 2, and section 2. |
| 1914 . . | X | The Repealing and Amending Act, 1914. | In the Second Schedule, the entries relating to Act XIII of 1891, and Act VII of 1899. |
| 1915 . . | XV | The Inland Steam-vessels (Amendment) Act, 1915. | The whole Act. |

ACT No. II of 1917.¹

[16th February, 1917.]

An Act to provide for the imposition and levy of certain duties on motor spirit.

WHEREAS it is expedient to impose an excise duty and to increase the existing customs duty on motor spirit; It is hereby enacted as follows :—

1. (1) This Act may be called the Motor Spirit (Duties) Act, 1917 ;
 (2) It extends to the whole of British India ; *²
 * (3) * * * * *

Short title,
extent and
duration.

2. "Manufactory" means any place where motor spirit is refined or otherwise prepared. Definitions.

"Motor spirit" means any inflammable hydro-carbon (including any mixture of hydro-carbons or any liquid containing hydro-carbon) which is capable of being used for providing reasonably efficient motive power for any form of motor vehicle.

3. (1) There shall be levied and collected at every manufactory in British India on all motor spirit produced in such manufactory, a duty at the rate of six annas on each imperial gallon. Imposition of excise duty on motor spirit manufactured in British India.

Explanation.—Motor spirit is said to be produced, within the meaning of this section, when it is issued, out of the premises of the manufactory.

(2) If any duty payable under sub-section (1) is not paid within the time fixed by a notice issued in accordance with any rules made under this Act, the authority to which such duty is payable may, in lieu thereof, recover any sum not exceeding double the amount of the duty so unpaid, which such authority may in its discretion think it reasonable to require.

(3) All sums recoverable under sub-section (1) shall be recovered in the manner prescribed in the Indian Income-tax Act, 1886, section 80, sub-sections (1), (2) and (3) with respect to the sums therein referred to. II of 1886.

4. (1) After the commencement of this Act, no person shall issue any motor spirit out of the premises of any manufactory, except in accordance with the provisions of rules made under this Act in that behalf, or, until such rules are made, in accordance with the general or special orders of the Local Government. Issue of motor spirit after commencement of Act.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to rupees one thousand, or to a sum double

¹ For Proceedings in Council, see Gazette of India, 1917. Pt. VI, p. 151.

² The duration clause which provided that the Act shall remain in force during the war and six months thereafter was repealed by s 2 of Act III of 1919, *infra*.

³ See now the Indian Income-tax Act, 1918 (VII of 1918), *infra*.

the amount of the duty payable on any motor spirit so issued, whichever is greater.

Application
of Sea Customs
Act and
rule-making
power.

5. (1) The Governor General in Council may, by ¹notification in the Gazette of India, declare that any of the provisions of the ²Sea Customs Act, 1878, ^{VIII of 1878.} relating to the levy of, and exemption from, custom duties, drawback of duty, warehousing, offences and penalties, confiscation, and the procedure relating to offences and appeals shall, with such modifications and alterations as he may consider necessary or desirable to adapt them to the circumstances, be applicable in regard to like matters in respect of the duty on motor spirit imposed by section 3, and may further, for the purpose of providing for the assessment and collection of the said duty and for purposes ancillary thereto, make rules—

- (i) imposing on owners of manufactories the duty of furnishing return and keeping records and books, prescribing the forms of such returns, records and books and the particulars to be contained therein respectively, and the manner in which the same are to be verified and all such other conditions thereof as may be necessary ;
- (ii) providing for the regulation of the issue of motor spirit out of manufactories, the assessment of the duty, and the issue of notices requiring payment and for the recovery of unpaid duty ;
- (iii) providing for the inspection of manufactories and for the taking of samples, and for the making of test of any substance produced therein ;
- (iv) generally carrying into effect the purposes hereinbefore specified.

(2) In making any rule under the rule-making power hereinbefore conferred, the Governor General in Council may declare that any breach thereof shall be punishable with fine which may extend to rupees five hundred.

Imposition
of additional
duty on motor
spirit import-
ed into
British India.

6. In addition to the duty imposed by section 3 of the ³Indian Tariff Act, ^{VIII of 1894.} 1894, as subsequently amended, read with Schedule II of the said Act, there shall be levied and collected at every port to which that Act applies a duty at the rate of six annas on each imperial gallon of motor spirit, and this additional duty shall be deemed to be a duty imposed under section 3 of the said Act, and that Act shall apply accordingly.

¹ For such notification and rules, see Leg. and O. W.

² Genl. Acts, Vol. II.

³ Genl. Acts, Vol. IV.

ACT No. III OF 1917.¹

[28th February, 1917.]

An Act to constitute an Indian Defence Force, and for other purposes.

WHEREAS it is necessary to constitute an Indian Defence Force, and compulsorily to enrol for service in that Force certain European British subjects; and

Whereas in the case of others, it is deemed sufficient for the present to take powers to enrol for such service only such persons as may offer themselves for enrolment;

It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Defence Force Act, 1917.

Short title,
extent and
duration.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas, and applies also to European British subjects within the territories of any Native Prince or Chief in India [and to persons deemed to be enrolled under section 3 of this Act whether within or without the limits of India].²

(3) It shall remain in force during the continuance of the present war³, and for a period of ³[one year] thereafter.

2. In this Act, unless there is anything repugnant in the subject or Definition. context,—

Act V of 1898.
I of 1917.
XX of 1869. “European British subject” means a European British subject as defined in the ‘Code of Criminal Procedure, 1898, and shall, for the purposes of this Act, be deemed to include every person who, before the third day of March, 1917, has filled up, signed and lodged Form A with the Registration Authority under the ‘Registration Ordinance, 1917, and also every person who at the commencement of this Act is a member of a corps of volunteers constituted under the ‘Indian Volunteers Act, 1869;

“Prescribed” means prescribed by rules made under this Act.

3. Every male European British subject who, on the first day of February, 1917, was ordinarily resident in India or thereafter becomes so resident and who for the time being has attained the age of eighteen years and has

¹ For Statement of Objects and Reasons, see Gazette of India, 1917, Pt. V, p. 28; for Report of Select Committee, see *ibid*, 1917, Pt. V, p. 33; and for Proceedings in Council, see *ibid*, 1917, Pt. VI, pp. 178 and 268.

For application of this Act to Berar and certain other areas under the Indian (Foreign Jurisdiction) Order in Council, 1902, see notification No. 1698-D., dated 14th March, 1917, in Leg. and O. W.

² These words were added by s. 2 of the Indian Defence Force (Foreign Service) Amendment Act, 1918 (XXI of 1918), *infra*.

³ These words in s. 1(3) were substituted for the words “six months” by s. 2 of Act VII of 1919, *infra*.

As to date of termination of the war, see Act V of 1919, *infra*.

⁴ Genl. Acts, Vol. V.

⁵ Appendix *infra*.

⁶ Genl. Acts, Vol. II.

not attained the age of forty-one years, and who is not within the exceptions set out in the Schedule to this Act, shall be deemed to be enrolled for general military service within the meaning of this Act :

Provided that, if any person referred to in this section whilst engaged in actual military employment, of which fact the Commander-in-Chief in India shall be the sole judge, attains the age of forty-one years, such person shall continue to serve for such additional period not exceeding one year as the prescribed military authority may direct.

Obligation of
local military
service.

4. Every male European British subject who, on the first day of February, 1917, was ordinarily resident in India, or thereafter becomes so resident, and who for the time being has attained the age of forty-one years but has not attained the age of fifty years, and who is not within the exceptions set out in the Schedule to this Act, shall be deemed to be enrolled for local military service within the meaning of this Act.

Obligation of
local military
service and
liability to
military
training.

5. Every male European British subject who, on the first day of February, 1917, was ordinarily resident in India, or thereafter becomes so resident, and for the time being has attained the age of sixteen years but has not attained the age of eighteen years, shall be deemed to be enrolled for local military service, but shall only be liable to such military training as may be provided for by regulations made under this Act, and shall not be liable to any other form of military service.

Obligation on
persons
enrolled for
military
service.

6. Every person deemed to be enrolled for military service, whether local or general, shall, as from the commencement of this Act, be deemed to be enrolled in the Indian Defence Force, and may be appointed to such corps or unit thereof as he may thereafter be assigned to, and shall, if he is a person deemed to be enrolled for general military service, be liable [to serve within or without the limits of India].¹

Obligation on
persons
enrolled for
local military
service.

7. Every person deemed to be enrolled for local military service shall be subject to any rules and regulations relating to that service which may be made under this Act :

Provided that no such rule or regulation shall require any such person to serve outside the limits of the prescribed local area.

Obligation on
persons
enrolled for
general
military
service.

8. (1) Every person deemed to be enrolled for general military service shall be subject to any rules and regulations relating to that service which may be made under this Act.

(2) Every such person, when called out in the prescribed manner for general military service, shall be subject to the provisions of the ^{44 & 45} 2 Army Act Vict., c. 58. and any orders or regulations made thereunder, whereupon the said Act,

¹ These words were substituted for the words "to serve in any part of India" by s. 3 of the Indian Defence Force (Foreign Service) Amendment Act, 1918 (XXI of 1918), *infra*.

² Coll. of Stat., Vol. II.

orders and regulations shall apply to him as if the same were enacted in this Act, and as if such person held the same rank in the Army as he holds for the time being in the Indian Defence Force.

9. If any question arises, with reference to this Act, whether any person is a European British subject within the meaning of this Act, or is "ordinarily resident" in British India, or is within the exceptions set out in the Schedule or as to the age of any person, the prescribed authority, or a person authorised in this behalf in writing by that authority, shall apply to the District Magistrate or to an officer specially empowered in this behalf by the Local Government, in the district or local area in which the person to whom the dispute relates is for the time being, and such Magistrate or other officer after hearing such person or giving him a reasonable opportunity of being heard, shall summarily determine the question, and the decision of such Magistrate or other officer shall be final for all the purposes of this Act :

Determina-
tion of
disputes as to
residence and
age.

1 of 1917.

Provided that if any question referred to in this section has been decided in accordance with the procedure provided in the ¹Registration Ordinance, 1917, such decision shall be deemed to be a decision under this section of this Act.

10. If any person who is deemed to be enrolled for military service, whether local or general, disobeys any notice or order calling him out for such service, any District or Chief Presidency Magistrate may, on the application of the prescribed authority, or of a person authorized in this behalf in writing by that authority, cause such person to be arrested and brought before him, and if the Magistrate is satisfied that he is a person to whom section 3, 4 or 5 of this Act applies, and who has been called out for such service, the Magistrate without prejudice to any penalty which such person may have incurred shall make over such person to the custody of the military authorities.

Arrest of
persons
under
obligation
for military
service.

11. (1) Application may be made to the prescribed authority by, or (subject to rules made under this Act) in respect of, any person referred to in section 3, 4 or 5, for the issue to him of a certificate of exemption under the provisions of this Act on any of the following grounds, namely:—

Certificate of
exemption.

- (a) that it is expedient in the national interest that he should instead of being employed in military service be engaged in other work ; or
- (b) if he is being educated or trained for any work that it is expedient in the national interest that he should continue to be so educated or trained ; or
- (c) ill-health or infirmity ;

and the prescribed authority, if it considers the grounds of the application established, shall grant such a certificate.

¹Appendix, *infra*.

(2) The Governor General in Council may also, by order in writing, direct the issue to such persons or class of persons, as he thinks fit, of certificates of exemption if he is satisfied that such a course is desirable in the national interest.

(3) Any certificate of exemption may be absolute, conditional, or temporary, and may be renewed, varied or withdrawn at any time by the authority which granted it, and may provide that a person liable to general military service shall perform local military service :

Provided that every conditional or temporary certificate shall state the conditions under which or the period for which it is granted.

(4) If, for the purpose of obtaining exemption for himself or any other person, or for the purpose of obtaining the renewal, variation, or withdrawal of a certificate, any person makes a false statement or false representation, to any authority under this section, he shall be punishable with imprisonment for a term which may extend to six months, or with fine or with both.

Enrolment of European British subjects above the age of fifty years.

11 A. [Any European British subject who for the time being has attained the age of fifty years may offer himself for enrolment for general military service or local military service, and may be enrolled accordingly in the prescribed manner, and any person so enrolled shall be liable to all the obligations imposed on persons deemed to be enrolled for general military service or local military service within the meaning of this Act, as the case may be, and shall continue to be so liable until relieved thereof in the prescribed manner.]

Enrolment of persons other than European British subjects in the Indian Defence Force for general military service.

12. ²[(1) The Governor General in Council may constitute³ in any local area, corps or units, for the enrolment in the Indian Defence Force for general military service, of persons other than European British subjects.

(2) When any corps or unit has been constituted under sub-section (1), the Governor General in Council may, by notification⁴ in the Gazette of India, declare that, in any local area specified in the notification, persons other than European British subjects who satisfy the prescribed conditions and offer themselves for enrolment for general military service may, as long as the notification continues in force, be enrolled accordingly in such corps or unit in the prescribed manner.]

⁴(5) Every person enrolled in a corps or unit constituted under sub-section (1) shall be liable to serve in any part of India, shall be subject to all

¹Section 11-A. was inserted by section 2 of the Indian Defence Force (Further Amendment) Act, 1918 (XIX of 1918), *infra*.

²These two sub-sections were substituted for original sub-section (1) by section 2 of the Indian Defence Force (Amendment) Act, 1918 (VIII of 1918), *infra*.

³For notifications issued under this section, see Leg. and O. W. .

⁴This sub-section was renumbered by section 2 of the Indian Defence Force (Amendment) Act, 1918 (VIII of 1918), *infra*.

rules and regulations that may be made under this Act relating to his corps or unit, and shall not quit such corps or unit except in the prescribed manner.

VIII of
1911.

¹(4) Every such person shall, when called out in the prescribed manner for general military service, be subject to the ²Indian Army Act, 1911, and the rules made thereunder, whereupon the said Act and rules shall apply to him as if he held the same rank in the Indian Army as he holds for the time being in the Indian Defence Force.

13. (1) The Governor General in Council may make rules³ to carry out the purposes of this Act. Power to
make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) prescribe authorities for the purposes of sections 9 and 10 ;
- (b) constitute authorities and prescribe the procedure of such authorities for the purpose of considering applications for exemption from military service ;
- (c) prescribe the time within which, and the form in which, such application may be made, and the persons other than the person to be exempted by whom it may be made ;
- (d) prescribe the conditions subject to which persons other than European British subjects should be permitted to offer themselves for general military service ;
- (e) prescribe the military or other obligations to which persons or any class of persons enrolled or deemed to be enrolled under this Act shall respectively be liable ; constitute or specify Courts for the trial and punishment of breaches of such obligations ; prescribe the procedure to be followed by such courts ; and provide for the enforcement or carrying out of the orders or sentences of such Courts ;
- (f) provide for the medical examination of persons liable to general military service ;
- (g) provide for the calling out and all purposes ancillary thereto of persons or any class of persons liable to general military service, and constitute authorities for the purpose of assisting in the selection of persons to be so called out ; and
- (h) provide for any matter in this Act directed to be prescribed.

¹ This sub-section was renumbered by section 2 of the Indian Defence Force (Amendment) Act, 1918 (VIII of 1918), *infra*.

² Genl. Acts, Vol. VII.

³ For rules under this section, see Leg. and O. W.

(3) Rules made under this section may provide that any contravention thereof or of any order or notice issued under the authority of any such rule shall be punishable with imprisonment for a term which may extend to six months, or with fine or with both

(4) All rules made under this Act shall be published in the Gazette of India, and, on such publication, shall have effect as if enacted in this Act.

Summary
and minor
punishments.

14 (1) The Commander-in-Chief in India may, subject to the control of the Governor-General in Council, specify the summary and minor punishments for breach of any rule made under this Act to which persons enrolled or deemed to be enrolled under this Act shall be liable, without the intervention of a Court, and the officer or officers by whom and the extent to which such summary and minor punishments may be awarded.

(2) No punishment exceeding in severity imprisonment in military custody for a period of seven days shall be imposed as a summary punishment and no punishment involving any kind of imprisonment, shall be imposed as a minor punishment

Power to
make regu-
lations.

15. (1) The Commander-in-Chief in India may make regulations providing generally for all details connected with the organization, personnel, duties, and military training of any persons liable to military service or training under this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may :—

- (a) specify the units, whether of regular troops or any other military force with which any person or class of persons enrolled or deemed to be enrolled under this Act shall serve or undergo military training, or constitute special military units for that purpose ;
- (b) specify the courses of training or instruction to be followed by any person or class of persons liable to military service or training under this Act ; and
- (c) provide for and regulate the remuneration, allowances, gratuities or compensation (if any) to be paid to any person or class of persons undergoing military service or training under this Act or to their dependants.

(3) Regulations made under this section may provide that any contravention thereof, or of any order or notice issued under the authority of any such regulations, shall be punishable with fine which may extend to five hundred rupees.

16. Nothing in this Act shall apply to any person confined in a prison or lunatic asylum.

Act not to
apply to
persons con-
fined in a
prison or
lunatic
asylum.

17. The Governor General in Council may disband any corps or unit constituted under this Act.

Power to
disband corps
or unit.

I of 1917.

18. The provisions of the ¹Registration Ordinance, 1917, shall be in force during the continuance of this Act, and shall have effect as if they had been enacted in this Act.

Provisions of
Registration
Ordinance,
1917, conti-
nued in force.

Provided that the following amendments shall be made therein, namely :—

(1) In section 3, sub-section (1), of the said Ordinance, for the words “ had not attained the age of fifty years on the first day of February, 1917,” the words “ who for the time being has not attained the age of fifty years,” shall be substituted.

(2) In Schedule II of the said Ordinance in entry (1) after the word “ forces,” the words “ or of the Royal Indian Marine Service ” shall be inserted, and in entry (2) for the word “ British,” the word “ religious ” shall be substituted.

THE SCHEDULE.

[See sections 3 and 4.]

EXCEPTIONS.

(1) Members of His Majesty's Naval and Military Forces or of the Royal Indian Marine Service other than Volunteers enrolled under the XX of 1869. ²Indian Volunteers' Act, 1869.

(2) Persons in Holy Orders or regular Ministers of any religious denomination.

(3) Persons who have at any time since the beginning of the war been prisoners of war, captured or interned by the enemy, or have been released or exchanged.

¹Appendix, *infra*.

²Genl. Acts, Vol. I.

ACT No. IV of 1917.¹

[28th February, 1917.]

An Act to authorise the suspension of certain sentences passed ^{VIII of 1911.} by Courts-martial under the Indian Army Act, 1911, and for other purposes.

WHEREAS it is expedient to authorise the suspension of sentences of imprisonment or transportation passed during the present war on persons subject to the ²Indian Army Act, 1911, and to make provision for other matters connected therewith ; It is hereby enacted as follows :— ^{VIII of 1911}

Short title, construction and duration. 1. (1) This Act may be called the Indian Army (Suspension of Sentences) Act, 1917, and shall be construed as one with the principal Act.

(2) It shall remain in force during the continuance of the ³present war, and for a period of six months thereafter.

Definitions. 2. In this Act, unless there is anything repugnant in the subject or context,—

(1) “ committed ” includes committal to prison and confinement in military custody, and “ imprisonment ” includes such confinement ;

(2) “ competent military authority ” means a superior military authority, or any general or other officer not below the rank of field officer, duly authorised by a superior military authority ;

(3) “ principal Act ” means the ²Indian Army Act, 1911 ;

VIII of 1911

(4) “ sentence ” means a sentence of transportation or imprisonment, whether originally passed on a person subject to the principal Act, or passed by way of reduction or commutation ; and “ sentenced ” has the corresponding meaning ;

(5) “ superior military authority ” means any of the following, namely :—the Commander-in-Chief in India or the Officer Commanding the Army, Army Corps, Division or Independent Brigade ⁴[in which an offender is for the time being serving, or within the limits of whose command an offender who has been committed is for the time being undergoing his sentence] and includes the Officer Commanding-in-Chief of any force employed on active service, or any General Officer Commanding an army comprised in that force.

¹ For Proceedings in Council, see Gazette of India, 1917, Pt. VI, p. 291.

² Genl. Acts, Vol. VII.

³ As to date of termination of the war, see Act V of 1919, *infra*.

⁴ These words were substituted for the words “ in which the offender, at the time of his conviction, was serving,” by s. 2 of the Indian Army (Suspension of Sentences) Amendment Act, 1918 (XVIII of 1918), *infra*.

3. (1) Where a person subject to the principal Act is sentenced, the confirming officer when confirming the sentence, or, in the case of a sentence which does not require confirmation, the officer holding the trial or the President of the Court-martial when passing sentence may, notwithstanding anything in the principal Act, direct that such person be not committed¹ * * * until the orders of a superior military authority have been obtained.

(2) A superior military authority may, in the case of any such offender so sentenced,—

(a) direct that such offender shall not be committed until his orders have been obtained ;

(b) suspend the sentence whether or not the offender has already been committed.

(3) Where a sentence is suspended under this Act before the offender has been committed, he shall be released if in custody, and, notwithstanding anything in the principal Act, the sentence shall not begin to run until the offender is committed under that sentence.

(4) Where a sentence is suspended under this Act after the offender has been committed, he shall be discharged, and the currency of the sentence suspended until he is again committed under the same sentence.

(5) An offender, whose sentence has been suspended under this Act, whether or not the sentence is subsequently remitted, may be required² [by a superior military authority] to serve in a corps or department other than that in which he was serving when sentenced.

(6) Where a sentence has been suspended under this Act, the case may at any time, and shall at intervals of not more than³ [four] months, be reconsidered by a competent military authority, and if, on any such re-consideration, it appears to the competent military authority that the conduct of the offender since his conviction has been such as to justify a remission of the sentence, he shall remit it.

(7) A superior military authority may, at any time whilst a sentence is suspended under this Act, order that the offender be committed, and thereupon the sentence shall cease to be suspended.⁴ * * * *

¹ The words "or dismissed from the service (if liable to such dismissal)" were omitted by s. 3 (1) of the Indian Army (Suspension of Sentences) Amendment Act, 1918 (XVIII of 1918), *infra*.

² These words were inserted by s. 3 (2) of *ibid*.

³ This word was substituted for the word "three" by s. 3 (3) of *ibid*.

⁴ The words "and the prisoner, if liable to be dismissed from the service under section 15 of the principal Act, shall be forthwith dismissed from the service," were omitted by s. 3 (4) of *ibid*.

¹[(8) Where an offender, whilst a sentence on him is suspended under this Act, is sentenced for any other offence, then—

- (a) if the further sentence is also suspended under this Act, the authority ordering such suspension may direct that the two sentences shall run either concurrently or consecutively; provided that the aggregate term of imprisonment to be served under two or more sentences shall not exceed fourteen consecutive years;
- (b) if the further sentence exceeds three months and is not suspended under this Act, the offender shall be deemed to have been committed on the previous sentence from the date on which the further sentence was passed unless a superior military authority otherwise directs,
- (c) where the sentence for such other offence is a sentence of transportation, then whether or not that sentence is suspended, any previous sentence of imprisonment which has been suspended shall be avoided so far as the period of such imprisonment does not exceed that of the transportation]

(9) The powers conferred by this Act shall be in addition to, and not in derogation of, any powers as to the mitigation, remission or commutation of sentences conferred by the principal Act, and a superior military authority shall, as regards persons subject to that Act, be an authority having power to mitigate, remit or commute sentences under section [112]² of that Act.

³[(10) Sentences which are suspended under this Act when this Act ceases to be in force shall be deemed to be remitted.

(11) Where a punishment of dismissal has been awarded by a Court-martial in addition to a sentence to which this Act applies, then, notwithstanding anything contained in the principal Act or in any rules made thereunder, such dismissal shall not take effect until the completion of the sentence or until this Act ceases to be in force, whichever is the earlier event :

Provided that, if a sentence is remitted under this Act, the punishment of dismissal shall also be remitted.]

¹ This sub-section was substituted for the original sub-section (8) by s. 3 (5) of the Indian Army (Suspension of Sentences) Amendment Act, 1918 (XVIII of 1918), *infra*.

² These figures were substituted for figures "29" by s. 3 (6) of *ibid*.

³ Sub-sections (10) and (11) were added by s. 3 (7) of *ibid*.

ACT No. V of 1917.¹

[28th February, 1917.]

An Act to consolidate and amend the law providing for the destruction or other disposal of certain documents in the possession or custody of Courts and Revenue and other public officers.

WHEREAS it is expedient to consolidate and amend the law providing for the destruction or other disposal of certain documents in the possession or custody of Courts and Revenue and other public officers; It is hereby enacted as follows :—

1. This Act may be called the Destruction of Records Act, 1917.

Short title.

2. In this Act—

Definitions.

(1) "The Chief Controlling Revenue-authority" means—

(a) in the presidencies of Fort William in Bengal and Fort St. George and in the United Provinces and Bihar and Crissa,—the Board of Revenue ;

(b) in the Presidency of Bombay outside Sind and the limits of the town of Bombay,—a Commissioner ;

(c) in Sind,—the Commissioner ;

(d) in the Punjab and Burma,—the Financial Commissioner ;
and

(e) elsewhere, the Local Government or such officer as the Local Government may, by notification in the local official Gazette, appoint in this behalf.

(2) "High Court" means the highest Civil Court of appeal in any local area.

3. (1) The authorities hereinafter specified may, from time to time, make rules for the disposal, by destruction or otherwise, of such documents as are, in the opinion of the authority making the rules, not of sufficient public value to justify their preservation.

Power to certain authorities to make rules for disposal of documents.

(2) The authorities shall be—

(a) in the case of documents in the possession or custody of a High Court or of the Courts of Civil or Criminal jurisdiction subordinate thereto,—the High Court ;

¹ For Statement of Objects and Reasons. *see* Gazette of India, 1917, Pt. V, p. 2 ; and for Proceedings in Council, *see ibid.*, 1917, Pt. VI, pp. 17 and 292.

- (b) in the case of documents in the possession or custody of Revenue Courts and officers,—the Chief Controlling Revenue authority ; and
- (c) in the case of documents in the possession or custody of any other public officer,—the Local Government or any officer specially authorised in that behalf by the Local Government.

(3) Rules made under this section by the High Court of Judicature at Fort William in Bengal shall be subject to the previous approval of the Governor General in Council, and rules made by any other High Court, or by a Chief Controlling Revenue authority or by an officer specially authorised in that behalf by a Local Government, shall be subject to the previous approval of the Local Government.

Validation of former rules for disposal of documents.

4. All rules and orders directing or authorising the destruction or other disposal of documents in the possession or custody of any public officer, heretofore made by a Local Government, or with the approval of the Local Government by any authority not empowered to make such rules under the Destruction of Records Act, 1879, shall be deemed to have had the force of law from the date on which they were made, and all such rules and orders now in force shall continue to have the force of law until they are superseded by rules made under this Act.

Saving of certain documents.

5. Nothing in this Act shall be deemed to authorize the destruction of any document which, under the provisions of any law for the time being in force, is to be kept and maintained.

Repeals.

6. The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof.

THE SCHEDULE.

REPEAL OF ENACTMENTS.

(See section 6)

| 1 | 2 | 3 | 4 |
|-------|---------|---------------------------------------|--|
| Year. | Number. | Short title. | Extent of repeal. |
| 1879 | III | The Destruction of Records Act, 1879. | The whole. |
| 1908 | XVI | The Indian Registration Act, 1908. | The words "and also for the destruction of such books, papers and documents as need no longer be kept" in clause (a) of sub-section (1) of section 69. |

1917 : Act V.]
1917 : Act VI.]

Destruction of Records.
Tariff.

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THE SCHEDULE.
REPEAL OF ENACTMENTS—*concl'd.*
(See section 6.)

| 1 | 2 | 3 | 4 |
|-------|---------|--|---|
| Year. | Number. | Short title. | Extent of repeal |
| 1913 | II | The Official Trustees Act, 1913 | Clause (ee) of sub-section (2) of section 30. |
| ,, | III | The Administrator-General's Act, 1913. | Clause (ff) of sub-section (2) of section 50 |

ACT No. VI of 1917.¹

[7th March, 1917.]

An Act further to amend the Indian Tariff Act, 1894.

VIII of
1894.

WHEREAS it is expedient further to amend the ²Indian Tariff Act, 1894 ;
It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Tariff (Amendment) Act, 1917. Short title and retrospective effect.
(2) It shall be deemed to have come into force on the first day of March 1917, and any sums due on account of new duties leviable thereunder, or of any deficiency between the duties which have been paid and the duties which are leviable thereunder, shall be deemed to be duties short levied within the meaning of section 39 of the ²Sea Customs Act, 1878, and that Act shall apply accordingly

VIII of
1878.

VIII of
1894.

2. In Schedule II of the ³Indian Tariff Act, 1894, as subsequently amended (hereinafter called the said Act)—
Amendment of Schedule II of Act VIII of 1894.

(i) For item 50 the following shall be substituted, namely :—

| | | | |
|------|--|-------------------|---------------|
| " 50 | Silver plate, silver thread and wire and silver manufactures, all sorts. | <i>Ad valorem</i> | 10 per cent." |
|------|--|-------------------|---------------|

(ii) Item 51 is hereby repealed.

¹ For Statement of Objects and Reasons, see Gazette of India, 1917, Pt. V, p 42, and for Proceedings in Council, see *ibid*, 1917, Pt. VI, pp. 370 and 387.

² Genl. Acts, Vol. II.

³ Genl. Acts, Vol. IV.

(iii) For item 107 the following shall be substituted, namely :—

YARNS AND TEXTILE FABRICS.

“107 | **YARNS AND TEXTILE FABRICS, that is to say :—**

Cotton piece-goods, thread other than sewing or darning thread,
and all other manufactured cotton goods not otherwise speci-
fied ;

Flax twist and yarn, and manufactures of flax ;

Haberdashery and millinery ;

Hemp manufactures ,

Hosiery ,

Jute twist and yarn, and jute manufactures, excluding second-
hand or used gunny bags (*see* No. 24) ;

Silk yarn, noils and warps, silk thread, silk piece-goods and
other manufactures of silk ;

Woollen yarn, knitting wool and other manufactures of wool
including felt ;

All other sorts of yarns and textile fabrics not otherwise speci-
fied.”

Amend-
ment of
Schedule III
of Act VIII
of 1894.

3. In Schedule III of the said Act—

(i) For item 1 the following shall be substituted, namely :

| “1 | RAW JUTE— | | Rs. A. |
|----|--------------------------------------|------------------|--------|
| | (1) Cuttings | Bale of 400 lbs. | 1 4 |
| | (2) All other descriptions | ” ” ” | 4 8” |

(ii) For item 2 the following shall be substituted, namely :—

| “2 | JUTE MANUFACTURES, when not in actual use as coverings, receptacles or bindings for other goods. | | Rs. A P. |
|----|--|-------------------|----------|
| | (1) Sacking (cloth, bags, twist yarn, rope and twine). | Ton of 2,240 lbs. | 20 0 0 |
| | (2) Hessians and all other descriptions of jute manufactures not otherwise specified. | ” ” | 32 0 0” |

ACT No. VIII OF 1917.¹

[7th March, 1917.]

An Act to impose a tax on income in addition to that imposed by the Indian Income-tax Act, 1886.

II of 1886.

WHEREAS it is expedient to impose a tax on income in addition to that imposed by the Indian Income-tax Act, 1886 ; It is hereby enacted as follows :—

1. (1) This Act may be called the Super-tax Act, 1917 ;

Short title,
extent and
commence-
ment.

(2) It extends to the whole of British India, and applies also within the dominions of Princes and States in India in alliance with His Majesty to British subjects in those dominions who are in the service of the Government of India, or of a local authority established in the exercise of the powers conferred on the Governor General in Council in that behalf ; and

(3) It shall come into force on the first day of April 1917.

2. (1) In this Act, unless there is anything repugnant in the subject or Definitions. context,—

“ prescribed ” means prescribed by rules made under this Act ;

“ previous year ” means the year ending on the 31st day of March in the year immediately preceding that in which the assessment is to be made, or, if the accounts of a person or company have been made up in the year immediately preceding that in which the assessment is to be made, then, at the option of such person or company, the year ending on the day on which his or its accounts have been so made up :

Provided that, if this option has once been exercised by a person or company, it shall not again be exercised so as to vary the meaning of the expression “ previous year ” as then applicable to such person or company, except with the consent of the Collector and upon such conditions as he may think fit.

II of 1886.

“ principal Act ” means the Indian Income-tax Act, 1886² ;

“ super-tax ” means a tax imposed by this Act ;

“ taxable income ” means so much of the total income of any person or company as is in excess of rupees fifty thousand ;

“ total income ” means the income accruing in the previous year from all sources except—

- (a) from the sources specified in section 5 (1) (a), (b), (c), (e), (g) and (h) of the principal Act³ ; and

¹ For Statement of Objects and Reasons, see Gazette of India, 1917, Pt. V, p. 47 ; for Report of Select Committee, see *ibid.*, 1917, Pt. V, p. 51 ; and for Proceedings in Council, see *ibid.*, 1917, Pt. VI, pp. 374 and 395.

² The Indian Income-tax Act, 1886, has been repealed by the Indian Income-tax Act, 1918 (VII of 1918), *infra*, but s. 53 of the latter Act provides that provisions of the former Act which have been applied or incorporated by reference in the Super-tax Act, 1917, shall for the purposes of that Act continue to be in force.

- (b) in the case of a Hindu undivided family, so much of the joint income of such family as has been actually expended or paid for the maintenance or other expenses of any member of such family or paid or finally allotted to any such member ;
- (c) in the case of a firm, so much of the income of the firm as has been paid or finally allotted to any of the members of the firm ; and
- (d) in the case of a company, so much of the income of the company as has been paid or declared for payment by way of dividends or otherwise to any of its members :

Provided that nothing in clause (b), (c) or (d) of this definition shall be deemed to exempt from super-tax any income therein referred to when received by any member of such family, firm or company.

(2) Words and expressions used in this Act and defined in the principal Act and not hereinbefore defined shall be deemed to have the meanings respectively attributed to them by that Act.

Incomes
liable to
super-tax
and rate
thereof.

3. In addition to the tax imposed by section 4 of the principal Act, there shall be charged and recovered and paid in the year beginning with the 1st day of April, 1917, and in each subsequent year to the credit of the Government of India, or as the Governor General in Council may direct, by every person subject to this Act and by every company, a super-tax upon the taxable income of such person or company computed at the rate specified in the Schedule.

Collector to
determine
persons
chargeable.

4. The Collector shall, from time to time, determine what persons and companies are chargeable with the super-tax, and the amount at which every person chargeable shall be assessed :

Provided that, in determining the amount at which a Hindu undivided family, firm or company shall be assessed, the Collector shall allow a deduction from the taxable income of such family, firm or company, of one-tenth of the income from all sources liable to taxation under the principal Act, of such family, firm or company.

Power to
call for
returns.

5. (1) In the case of a person or company whose total income is in the Collector's opinion of an amount chargeable with super-tax, the Collector, instead of or in addition to the notice referred to in section 14-A of the principal Act, may cause a notice to be served upon him or it requiring him or it to furnish, within such period as may be specified in the notice, a return in the prescribed form with a declaration annexed thereto to the same effect as that required to be annexed to a return under the said section, setting forth the total income in the previous year of such person or company, and such further particulars as may be provided for by such form.

¹ See footnote ² on p. 221.

(2) Every notice issued under sub-section (1) and every return and declaration required by such notice, shall be deemed respectively to be a notice issued and a return and declaration required under ¹section 14-A of the principal Act, and the provisions of ¹sections 34, 35 and 36 of that Act shall apply accordingly.

(3) Where a return is furnished in accordance with the terms of a notice under this section or under ¹section 14-A of the principal Act the assessment to be made by the Collector shall be made after considering such return. If no such return is furnished, such assessment shall be made after such inquiries as the Collector thinks fit have been carried out.

6. In the case of a person or company who, in the Collector's opinion, is chargeable with super-tax, the Collector shall cause a notice to be served on him or it stating the following particulars, namely :—

Notice to persons chargeable with super-tax.

- (a) his or its name and the source or sources of the income in respect of which he or it is chargeable ;
 - (b) the year or portion of the year for which the tax is to be paid ;
 - (c) the place or places, district or districts where the income accrues ;
 - (d) the amount to be paid ; and
 - (e) the places where and the person to whom the amount is to be paid ;
- and requiring him or it to pay within sixty days from the date specified in the notice the amount stated therein as payable by him or it, or to apply to the Collector within thirty days from that date to have the assessment reduced or cancelled :

Provided that, if in accordance with any rules made under this Act super-tax is payable in any case by instalments, the notice shall specify the date on which each instalment falls due, and shall require him or it to pay such instalment within the prescribed period from that date, or to apply as aforesaid to the Collector within thirty days of the date on which the first instalment falls due.

7. Every amount specified as payable in a notice served under section 6 shall be paid within the time, at the place and to the person mentioned in the notice.

Time and place of payment.

8. Subject to the provisions of this Act—

- (a) the provisions of ¹sections 20 to 24 of the principal Act shall apply in the case of super-tax as if that tax were income-tax chargeable under ¹Part IV of the principal Act ;
- (b) the provisions of ¹Chapter IV of the principal Act shall apply to the revision of assessment to super-tax as if that tax were income-tax chargeable under ¹Part IV of the principal Act :

Application of provision of Act II of 1886.

¹ See footnote ² on p. 221.

Provided that the time within which the petition referred to in ¹section 25 (2) of the principal Act shall ordinarily be presented shall be the period specified in the notice served under section 6 of this Act, and that the form of the petition shall be modified in such manner as may be necessary to adapt it for the purposes of this Act; and

²(c) the provisions of ¹Chapter V of the principal Act and of ¹sections 32, 37 and 39 to 50-A of the principal Act shall, as far as may be, apply, in regard to the matters mentioned therein, in the case of the super-tax as if that tax were income-tax chargeable under the principal Act.

Rule-making
power.

9. (1) The Governor General in Council may make ³rules consistent with this Act for ascertaining and determining the taxable income of any person or company thereunder, for preventing disclosure of particulars contained in documents delivered or produced with respect to such assessments, for prescribing the procedure that is to be followed on applications for refund of super-tax, for providing for the payment of that tax by instalments, and generally for carrying out the purposes of this Act, and may delegate to a Local Government the power to make such rules so far as regards the territories subject to that Government.

(2) In making a rule for preventing the disclosure of any particulars referred to in sub-section (1), the Governor General in Council may direct that a public servant committing a breach of the rule shall be deemed to have committed an offence under section 166 of the ⁴Indian Penal Code :

Act XLV of
1860.

Provided that a person committing any such offence shall not be liable to be prosecuted therefor without the previous sanction of the Local Government.

(3) Rules made under this section shall be published in the official Gazette.

SCHEDULE.

In respect—

(1) of the first fifty thousand rupees of taxable income—one anna in the rupee ;

(2) of the next fifty thousand rupees of taxable income—one and a half annas in the rupee ;

¹ See footnote ² on p 221.

² For Notification under this clause investing certain political officers with the powers of a Collector, see List of Gen. R. and O.

³ For rules and for delegation to Local Governments to make rules, see List of Gen. R. and O.

⁴ Genl. Acts, Vol. I.

1917 : Act VIII.]

Super-tax.

225

1917 : Act IX.]

Bills of Exchange.

1917 : Act X.]

Army.

(3) of the next fifty thousand rupees of taxable income—two annas in the rupee;

(4) of the next fifty thousand rupees of taxable income—two and a half annas in the rupee;

(5) of all taxable income over two lakhs of rupees—three annas in the rupee.

ACT No. IX of 1917. ¹

[13th March, 1917.]

An Act to amend the Indian Bills of Exchange Act, 1916.

XIV of 1916. WHEREAS it is expedient to amend the ² Indian Bills of Exchange Act, 1916 ; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Bills of Exchange (Amendment) Act, 1917. Short title and duration.

(2) It shall be in force during the continuance of the ³ present war, and for a period of six months thereafter.

XIV of 1916. 2. In section 2 of the ² Indian Bills of Exchange Act, 1916, before the word " payment," wherever that word occurs in the said section, the words " acceptance or " shall be inserted. Amendment of section 2 of Act XIV of 1916.

ACT No. X of 1917. ⁴

[21st March, 1917.]

An Act further to amend the Indian Army Act, 1911.

VIII of 1911. WHEREAS it is expedient further to amend the ⁵ Indian Army Act, 1911 ; It is hereby enacted as follows :—

1. This Act may be called the Indian Army (Amendment) Act, 1917. Short title.

VIII of 1911. 2. In section 52 of the ⁴ Indian Army Act, 1911 (hereinafter referred to as " the said Act "), after the words " in such manner," the words " and to such extent " shall be inserted. Amendment of section 52 of Act VIII of 1911.

¹ For Statement of Objects and Reasons, see Gazette of India, 1917, Pt. V, p. 40 ; and for Proceedings in Council, see *ibid*, 1917, Pt. VI, pp. 293 and 452.

² *Supra*.

³ As to date of termination of the war, see Act V of 1919, *infra*.

⁴ For Proceedings in Council, see Gazette of India, 1917, Pt. VI, p. 535.

⁵ Genl. Acts, Vol. VII.

Insertion of
new section
52A in Act
VIII of 1911.

Provision for
dependants of
prisoners of
war.

3. After section 52 of the said Act, the following section shall be inserted, namely :—

“ 52A. (1) In the case of all persons subject to this Act, being prisoners of war, whose pay and allowances have been forfeited under section 50, but in respect of whom a remission has been made under section 52, it shall be lawful, notwithstanding any provision in any enactment or any rule of law to the contrary, for proper provision to be made by the prescribed authorities out of such pay and allowances for any dependants of such persons, and any such remission shall in that case be deemed to apply only to the balance thereafter remaining of such pay and allowances.

(2) Any payments hitherto made to dependants by way of deductions from pay and allowances which, if this section had been in force, could have been validly made are hereby validated.”

Amendment
of section 76
of Act VIII
of 1911.

4. In section 76 of the said Act, in sub-section (1), the words “ held by the Commanding Officer of a Corps or department ” and sub-section (2), are hereby repealed.

Substitution
of new
section for
section 112
of Act VIII
of 1911.
Pardons and
remissions.

5. For section 112 of the said Act, the following section shall be substituted, namely :—

“ 112. When any person subject to this Act has been convicted by a Court-martial of any offence, the Governor General in Council or the Commander-in-Chief in India or, in the case of a sentence which he could have confirmed or which did not require confirmation, the Officer Commanding the Army, Division or Independent Brigade in which such person at the time of his conviction was serving, or the prescribed officer may—

(1) pardon the person ;

(2) mitigate or remit the punishment awarded, or commute such punishment for any less punishment or punishments mentioned in this Act ;

(3) order the restoration to him of any service or other advantage forfeited under his sentence ;

(4) re-admit him to the service when he has been dismissed therefrom :

Provided that a sentence of transportation shall not be commuted for a sentence of imprisonment for a term exceeding the term of transportation awarded by the Court.”

Amendment
of section 113
(2) of Act
VIII of
1911.

6. In section 113 (2) of the said Act, the following sub-head shall be inserted, namely :—

“ (ii) the constitution of authorities to decide for what persons, to what amounts and in what manner, provision should be made for dependants under section 52A, and the due carrying out of such decisions.”

ACT No XI of 1917.¹

[21st March, 1917.]

An Act to consolidate the enactments amending, temporarily, the
Indian Paper Currency Act, 1910.

II of 1910. WHEREAS it is expedient to consolidate the enactments amending, temporarily, the ² Indian Paper Currency Act, 1910 ; It is, hereby enacted as follows :—

1. (1) This Act may be called the Indian Paper Currency (Temporary Short title
Amendment) Act, 1917. and extent.

(2) It shall be in force during the continuance of the ² present war, and for a period of six months thereafter.

II of 1910. 2. Section 22 of the ³ Indian Paper Currency Act, 1910 (hereinafter Amendment
called "the said Act"), shall be construed as if for the words "one hundred of section 22
and forty millions" in that section, the words "two hundred of the Indian
for the words "forty millions" in the proviso to that section, the words "one Paper
hundred millions" were substituted Currency
Act, 1910.

3. Notwithstanding anything in sections 10 and 22 of the said Act, the Special power
Governor General in Council may direct that currency notes shall be issued to issue
for an additional amount, not exceeding at any time ⁴ [eight hundred currency
millions] of rupees, against Treasury Bills, as defined in the Treasury notes against
Bills Act, 1877, equivalent in value thereto and held by the Secretary of State British
for India in Council as a reserve to secure the payment of such notes or of Treasury
other currency notes of like amount. Bills.

4. Notwithstanding anything to the contrary in the said Act, any secu- Power to
rities created by the Government of India and issued to the Head Com- include
missioner of Paper Currency shall, for the purposes of the said Act, be securities
deemed to be securities purchased by the Governor General in Council, and created by
the market-price, on the day such securities are issued to the Head Com- Government
missioner of Paper Currency, of similar securities shall be deemed to be the of India in
price at which the securities so created were purchased ; and all references to reserve pro-
securities so purchased, wherever occurring in the said Act, shall be deemed vided for by
also to refer to securities so created, and all references to sums expended in the said Act.
such purchases or to prices paid therefor shall be deemed, in the case of
securities so created, to refer to such market-price, and the said Act shall be
construed accordingly.

¹ For Proceedings in Council, see Gazette of India, 1917, Pt. VI, p. 537.

² As to date of termination of the war, see Act V of 1919, *infra*.

³ Genl. Acts, Vol. VII.

⁴ These words were substituted by s. 2 of the Indian Paper Currency (Amendment) Act, 1917 (XIX of 1917) as amended by Act II of 1919, *infra*.

Freight (Railway and Inland Steam-vessel) Tax. [1917 : Act XIII.]

Repeal of Act V of 1915, Act IX of 1916, and Ordinance VII of 1916. repealed.

5. The Indian Paper Currency (Temporary Amendment) Act, 1915, the V of 1915. Indian Paper Currency (Temporary Amendment) Act, 1916, and the Second IX of 1916. Indian Paper Currency (Further Amendment) Ordinance, 1916, are hereby VII of 1916.

ACT No. XIII OF 1917.¹

[21st March, 1917.]

An Act to impose a tax on goods carried by railway or inland steam-vessel.

WHEREAS it is expedient to impose a tax on goods carried by railway or inland steam-vessel ; It is hereby enacted as follows :—

Short title
and com-
mencement.

1. (1) This Act may be called the Freight (Railway and Inland Steam-vessel) Tax Act, 1917.

(2) It shall come into force on the 1st day of April, 1917.

Definitions.

2. In this Act—

the expression “administration” and the expression “inland steam-vessel” have the meanings respectively attributed to them by the ² Indian Railways Act, 1890, and the ³ Inland Steam-vessels Act, 1917 ;

IX of 1890.
I of 1917.

“prescribed” means prescribed by rules made under this Act ;

“vessel” means anything made for the conveyance by water of human beings or of property.

Imposition
of tax on
goods carried
by railway
or inland
steam-vessel.

3. (1) Subject to the provisions of this Act, there shall be levied and collected on goods carried by—

(a) any railway in British India, or

(b) any inland steam-vessel in British India,

a tax at the rate specified in that behalf in Schedule I.

Explanation : goods carried on a vessel towed by an inland steam-vessel shall, for the purposes of this Act, be deemed to be goods carried by the inland steam-vessel.

(2) The tax imposed by sub-section (1) shall be collected by means of a surcharge on freight, by the administration of the railway or the owner of the inland steam-vessel by which the goods are carried, and shall be paid to the prescribed authority in the prescribed manner within the prescribed time, after making such deduction as may be prescribed to meet any expenses incurred in connection with the collection of the tax.

¹ For Statement of Objects and Reasons, see Gazette of India, 1917, Pt. V, p. 58 ; and for Proceedings in Council, see *ibid*, 1917, Pt. VI, pp 451 and 539.

² Genl. Acts, Vol. IV.

³ *Supra*.

(3) The owner of every inland steam-vessel referred to in sub-section (1) shall prepare and deliver, or cause to be prepared and delivered, to the prescribed authority, each quarter, a return in the prescribed form, of all goods carried by such vessel in respect of which the tax imposed by that sub-section is payable, and shall subscribe, at the foot of such return, a declaration of the truth thereof :

Provided that where goods are deemed to be carried by an inland steam-vessel, the owner of the towed vessel shall, if so required by the owner of the inland steam-vessel, certify the particulars of the goods carried on the towed vessel, and shall subscribe at the foot of the certificate a declaration of the truth thereof, and in that case the owner of the inland steam-vessel may incorporate all or any of such particulars in his return, and shall only be bound in respect of such particulars to subscribe to his return a declaration that they are true to the best of his knowledge and belief

(4) Every such return shall be delivered to the prescribed authority within thirty days after the end of the quarter to which it relates.

4. (1) The Governor General in Council may, by notification ¹ in the *Gazette of India*, make rules for carrying out the purposes of this Act. Rule-making power.

(2) In particular and without prejudice to the generality of the foregoing power, the Governor General in Council may make rules—

- (a) regulating the collection of the tax imposed by this Act, and providing for the authority to which, and the time and manner in which, such tax shall be paid,
- (b) prescribing the form of the returns required by this Act, and the particulars to be contained therein, and the manner in which the same is to be verified,
- (c) prescribing any other method than actual weightment for ascertaining the amount of the tax imposed by this Act, and
- (d) providing for any other matter which by this Act is to be prescribed.

(3) In making any rule under this section, the Governor General in Council may direct that a breach of it shall be punishable with fine which may extend to five hundred rupees.

5. The offences mentioned in column 1 of Schedule II shall be punishable Offences. to the extent mentioned in column 2 thereof with reference to such offences respectively.

6. The Governor General in Council may, by notification ² in the *Gazette of India*, exempt, either in whole or in part, and either absolutely or subject to Power to exempt. such conditions as he may prescribe, any goods or class of goods from the tax imposed under this Act.

¹ For notifications publishing rules applicable to Railways and to steam-vessels, see List of Genl. R. and O

² For notifications exempting various classes of goods, see List of Gen. R. and O.

230 *Freight (Railway and Inland Steam-vessel) Tax.* [1917 : Act XIII.
Prevention of Cruelty to Animals. [1917 : Act XIV.

SCHEDULE I.

[See Section 3.]

| 1 | 2 | 3 |
|--------------------------------|---|----------|
| Goods. | Unit. | Rate. |
| Coal, coke, and firewood . . . | Per Indian maund of 82 $\frac{2}{7}$ lbs. avondupois weight. | One pie. |
| All other goods . . . | Per Indian maund of 82 $\frac{2}{7}$ lbs. avondupois weight | Two pies |

SCHEDULE II.

[See Section 5.]

| 1 | 2 |
|---|---|
| (1) Omitting to make any return or certificate referred to in section 3 (3) or refusing to sign or complete the same. | Fine not exceeding one thousand rupees |
| (2) Making and delivering any such return or certificate containing any statement not true to the best of the information and belief of the person making the same. | The penalty provided in section 177 of the ¹ Indian Penal Code for furnishing false information to a public servant. |

XLV of
1860.

ACT No. XIV OF 1917.²

[21st March, 1917.]

An Act to amend the Prevention of Cruelty to Animals Act, 1890.

WHEREAS it is expedient to amend the ³ Prevention of Cruelty to Animals Act, 1890 ; It is hereby enacted as follows :—

XI of 1890

Short title.

1. This Act may be called the Prevention of Cruelty to Animals (Amendment) Act, 1917.

¹ Genl. Acts, Vol. I.

² For Statement of Objects and Reasons, see Gazette of India, 1917, Pt V, p. 4, for Report of Select Committee, see *ibid*, 1917, Pt. V, p 55, and for Proceedings in Council, see *ibid*, 1917, Pt. VI, pp. 142, 292 and 559.

³ Genl. Acts, Vol. IV.

XI of 1890.

2. After section 5 of the ¹ Prevention of Cruelty to Animals Act, 1890 (hereinafter referred to as the said Act), the following sections shall be inserted, namely :—

“ 5A. If any person has in his possession the skin of a goat, and has reason to believe that the goat has been killed in an unnecessarily cruel manner, he shall be punished with fine which may extend to one hundred rupees, or with imprisonment which may extend to three months, or with both, and the skin shall be confiscated.

5B. If any person is charged with the offence of killing a goat contrary to the provisions of section 5, or with an offence punishable under section 5A and it is proved that such person had in his possession, at the time the offence was alleged to have been committed, the skin of a goat with any part of the skin of the head attached thereto, it shall be presumed, until the contrary be proved, that such goat was killed in an unnecessarily cruel manner, and that the person in possession of such skin had reason so to believe.”

3. After section 7 of the said Act, the following section shall be inserted, namely :—

“ 7A. If a Police-officer, not below the rank of sub-inspector, has reason to believe that an offence under section 5, in respect of a goat, is being or is about to be, or has been, committed in any place, or that any person has in his possession the skin of a goat with any part of the skin of the head attached thereto, he may enter and search such place or any place in which he has reason to believe any such skin to be, and may seize any such skin and any article or thing used or intended to be used in the commission of such offence.”

4. In sub-section (2) of section 8 of the said Act after the words and figure “ under sub-section (1),” the words, figure and letter “ or under section 7A ” shall be added.

ACT No. XV OF 1917. ²

[13th September, 1917.]

An Act further to amend the Indian Registration Act, 1908.

XVI of 1908.

WHEREAS it is expedient further to amend the ³ Indian Registration Act, 1908 ; It is hereby enacted as follows :—

1. This Act may be called the Indian Registration (Amendment) Act, Short title. 1917.

¹ Genl. Acts, Vol. IV.

² For Statement of Objects and Reasons, see Gazette of India, 1915, Pt. V, p. 56, for Report of Select Committee see *ibid.*, 1917, Pt. V, p. 61, and for Proceedings in Council see *ibid.*, 1916, Pt. VI, pp. 317 and 508 and *ibid.*, 1917, Pt. VI, p. 561.

³ Genl. Acts, Vol. VI.

Insertion of
new section
23-A in Act
XVI of
1908.
Re-registra-
tion of cer-
tain docu-
ments.

2. After section 23 of the ¹Indian Registration Act, 1908, the following section shall be inserted, namely :—

“ 23A. Notwithstanding anything to the contrary contained in this Act, if in any case a document requiring registration has been accepted for registration by a Registrar or Sub-Registrar from a person not duly empowered to present the same, and has been registered, any person claiming under such document may, within four months from his first becoming aware that the registration of such document is invalid, present such document or cause the same to be presented, in accordance with the provisions of Part VI for re-registration in the office of the Registrar of the district in which the document was originally registered; and upon the Registrar being satisfied that the document was so accepted for registration from a person not duly empowered to present the same, he shall proceed to the re-registration of the document as if it had not been previously registered, and as if such presentation for re-registration was a presentation for registration made within the time allowed therefor under Part IV, and all the provisions of this Act, as to registration of documents, shall apply to such re-registration; and such document, if duly re-registered in accordance with the provisions of this section, shall be deemed to have been duly registered for all purposes from the date of its original registration :

Provided that, within three months from the 12th day of September, 1917, any person claiming under a document to which this section applies may present the same or cause the same to be presented for re-registration in accordance with this section, whatever may have been the time when he first became aware that the registration of the document was invalid.”

ACT No XVII OF 1917 ²

[19th September, 1917.]

An Act to amend the Government Savings Banks Act, 1873.

WHEREAS it is expedient to amend the ³ Government Savings Banks Act, V of 1873, It is hereby enacted as follows :—

Short title

1 This Act may be called the Government Savings Banks (Amendment) Act, 1917.

Amendment
of sections 4
and 8, Act V
of 1873.

2. In section 4 and section 8 of the ³ Government Savings Banks Act, V of 1873, for the words “one thousand rupees” the words “three thousand rupees” shall be substituted.

¹ Genl. Acts, Vol. VI.

² For Statement of Objects and Reasons, see Gazette of India, 1917, Pt. V, p. 87, and for Proceedings in Council, see *ibid.*, 1917, Pt. VI, pp. 858 and 929.

³ Genl. Acts, Vol. II.

ACT No. XVIII OF 1917.¹

[19th September, 1917.]

An Act to restrict the transfer of Post Office 5-year Cash Certificates and to provide for the payment of Certificates standing in the name of deceased persons.

WHEREAS it is expedient to restrict the transfer of Post Office 5-year Cash Certificates and to provide for the payment of Certificates standing in the name of deceased persons ; It is hereby enacted as follows :—

1. This Act may be called the Post Office Cash Certificates Act, 1917. Short title.

2. (1) Notwithstanding any provision in any enactment or any rule of law for the time being in force to the contrary, no transfer (whether made before or after the commencement of this Act) of a Post Office 5-year Cash Certificate shall be valid without the previous consent in writing of the Post Master General for the area in which the post office of issue is situate. Prohibition of transfer of Post Office 5-year Cash Certificates without the consent of the Post Master General.

(2) In this section "transfer" means a transfer *inter vivos* and does not include a transfer by operation of law.

3. (1) If a person dies and is at the time of his death the holder of a Post Office 5-year Cash Certificate, payment of the sum for the time being due on such Certificate may be made in the manner provided in the ² Government Savings Banks Act, 1873, for the payment of deposits belonging to the estates of deceased persons, and the provisions of sections 4 to 9 of the said Act shall apply accordingly as if the holder of such Certificate were a depositor in a Government Savings Bank and the sum for the time being due on such certificate were a deposit in such a Bank ; Payment on death of holder of Post Office 5-year Cash Certificate.

Provided that the powers conferred by the said provisions on the Secretary of a Government Savings Bank shall be exercisable by the Post Master General for the area within which the post office of issue of such Certificate is situate :

Provided further that, where in any one case payment is to be made of Certificates issued from more post offices than one, the said powers shall be exercisable by the Post Master General for the area in which any of the said post offices is situate.

(2) Nothing in sub-section (1) shall be deemed to require any person to accept payment of the amount due on a Post Office 5-year Cash Certificate before the same has reached maturity.

¹ For Statement of Objects and Reasons, see Gazette of India, 1917, Pt. V, p. 75 ; and for Proceedings in Council, see *ibid.*, 1917, Pt. VI, pp. 705 and 929.

² Genl. Acts, Vol. II.

ACT No. XIX OF 1917.¹

[19th September, 1917.]

An Act to amend the Indian Paper Currency Act, 1910, and the Indian Paper Currency (Temporary Amendment) Act, 1917.

WHEREAS it is expedient to amend the ² Indian Paper Currency Act, 1910, II of 1910. and the ³ Indian Paper Currency (Temporary Amendment) Act, 1917; It is XI of 1917. hereby enacted as follows :—

Short title and duration. 1. (1) This Act may be called the Indian Paper Currency (Amendment) Act, 1917.

(2) Sections 6 and 7 shall have operation only during the continuance of the ⁴ present war, and for a period of six months thereafter.

Amendment of section 3, Act XI of 1917 2. Section 3 of the ³ Indian Paper Currency (Temporary Amendment) Act, XI of 1917. shall be construed as if for the words "three hundred millions" the words ⁵ [eight hundred millions] were substituted.

Amendment of section 2, Act II of 1910. 3. In clause (a) of section 2 of the ² Indian Paper Currency Act, 1910, II of 1910 (hereinafter referred to as the said Act) after the words "value of" the words "one rupee, two and a half rupees," shall be inserted.

Amendment of section 3, Act II of 1910. 4. In section 3 of the said Act, the words "not being less than five rupees" shall be omitted.

Amendment of section 15, Act II of 1910. 5. In section 15 of the said Act, for the words "five rupees" wherever they occur the words "one rupee" shall be substituted.

Amendment of section 19, Act II of 1910. 6. In section 19 of the said Act after the words "the Governor General in Council" the words "including any gold coin or bullion held on behalf of the Governor General in Council by or under the control of the Government of any part of His Majesty's dominions for coinage or such other temporary purpose" shall be inserted.

Amendment of section 21, Act II of 1910. 7. In section 21 of the said Act after the words "the Secretary of State for India in Council" where they last occur, the words "or to the Government of any part of His Majesty's dominions or from any such Government to the Governor General in Council" shall be inserted.

Amendment of section 29 (2) (a), Act II of 1910. 8. In clause (a) of sub-section (2) of section 29 of the said Act, the words and signs " (not being less than five rupees) " shall be omitted.

Repeal of Ordinance II of 1917. 9. The Indian Paper Currency (Amendment) Ordinance, 1917, is hereby II of 1917. repealed.

¹ For Statement of Objects and Reasons, see Gazette of India, 1917, Pt. V, p. 76; and for Proceedings in Council, see *ibid*, 1917, Pt. VI, pp. 706 and 930.

² Genl Acts, Vol. VII.

³ *Supra*.

⁴ As to date of termination of the war, see Act V of 1919, *infra*.

⁵ These words were substituted by S. 2 of the Indian Paper Currency (Amendment) Act, 1919 (II of 1919), *infra*.

ACT No. XX OF 1917.¹

[19th September, 1917.]

An Act to restrict the transfer of ships registered in British India.

WHEREAS it is expedient to restrict the transfer of ships registered in British India ; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Transfer of Ships Restriction Act, 1917; Short title and duration.

(2) It shall remain in force during the continuance of the ² present war, and for three years thereafter.

2. In this Act :—

Interpretations.

(1) (a) "British subject" means a person who—

4 and 5 Geo.
5, c. 17.

(i) is a natural born British subject within the meaning of the British Nationality and Status of Aliens Act, 1914, or

(ii) holds a certificate of naturalization granted under any Act of Parliament, or

XXX of
1852.

(iii) holds a certificate of naturalization granted under the ³ Indian Naturalization Act, 1852,

(b) "foreign-controlled company" includes any company, firm or association or body of individuals whether incorporated or not—

(i) which is not established in and subject to the laws of some part of His Majesty's dominions or of some British Protectorate, and has not its principal place of business therein, or

(ii) of which the majority of the directors or the partners or persons occupying the position of directors or partners by whatever name called are not British subjects, or

(iii) of which the majority of the voting power or the predominant interest is in the hands of persons who are not British subjects or of persons who exercise their voting power or hold their interest directly or indirectly on behalf of persons who are not British subjects, or

(iv) of which the control is by any other means whatever in the hands of persons who are not British subjects, or

(v) of which the managing body is a foreign-controlled company, or the majority of the managing body are appointed by a foreign-controlled company.

¹ For Statement of Objects and Reasons, see Gazette of India, 1917, Pt. V, p. 77; and for Proceedings in Council, see *ibid.*, 1917, Pt. VI, pp. 712 and 940.

² As to date of termination of the war, see Act V of 1919, *infra*.

³ Genl. Acts, Vol. I.

(c) "interest" includes the interest of a mortgagee, and

(d) "persons qualified to be owners of British ships" has the same meaning as in section 1 of the ¹ Merchant Shipping Act, 1894. 57 and 58
Vict., c. 60.

(2) All provisions referring to a ship shall be read as referring also to a share in a ship.

Restriction of transfer. **3.** No interest in a British ship registered in British India under the ¹ Merchant Shipping Act, 1894, shall without the previous consent in writing of the Governor General in Council be transferred to a foreign-controlled company or to persons other than persons qualified to be owners of British ships. 57 and 58
Vict., c. 60.

Penalty. **4.** Whoever makes or attempts to make or abets the making of any transfer in contravention of the provisions of this Act, shall be punishable with imprisonment of either description which may extend to two years or with fine or with both.

Power to require particulars in certain cases. **5.** For the purpose of determining whether any person, who is or who applies to be registered as owner or mortgagee of a British ship, is or represents a foreign-controlled company, the Governor General in Council may require any such person or in the case of a company, firm or association, the secretary or other officer thereof to furnish such particulars as he may think necessary and such person or officer shall be bound to furnish the particulars so required.

Forfeiture in certain circumstances. **6.** Where any person having an interest in a British ship registered in British India ceases to be a British subject or becomes a foreign-controlled company, such interest shall be liable to forfeiture.

ACT No. XXI OF 1917.²

[19th September, 1917.]

An Act to amend the Indian Trusts Act, 1882.

WHEREAS it is expedient to amend the ³ Indian Trusts Act, 1882 ; It is II of 1882. hereby enacted as follows :—

Short title. **1.** This Act may be called the Indian Trusts (Amendment) Act, 1917.

Amendment of section 20 of Act II of 1882. **2.** At the end of clause (c) of section 20 of the ³ Indian Trusts Act, 1882, II of 1882. the following words shall be inserted, namely, "or in debentures of the Bombay Central Co-operative Bank, Limited, the interest whereon shall have been guaranteed, by the Secretary of State for India in Council."

¹ Coll of Stat., Vol II.

² For Statement of Objects and Reasons, see Gazette of India, 1917, Pt. V, p. 60 ; and for Proceedings in Council, see *ibid*, 1917, Pt. VI, pp. 540 & 945.

³ Genl. Acts, Vol. III.

ACT XXII OF 1917. ¹

[27th September, 1917.]

An Act to provide for the acquisition of gold imported into British India.

WHEREAS it is expedient to provide for the acquisition by the Governor General in Council of gold imported into British India ; It is hereby enacted as follows :—

1. (1) This Act may be called the Gold (Import) Act, 1917.

Short title,
extent and
duration.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas ; and

(3) It shall remain in force during the continuance of the ² present war, and for a period of six months thereafter.

2. In this Act, unless there is anything repugnant in the subject or Definitions. context,—

‘ coin ’ means metal used for the time being as money, and stamped and issued by the authority of some State or Sovereign power in order to be so used ;

‘ gold ’ means gold coin or gold bullion ;

‘ import ’ means the bringing by sea or land into British India.

3. (1) Subject to the provisions of this Act, the Governor General in Council or any person appointed by him in this behalf may, by order in writing, within ten days from the date of import, take possession of any gold imported into British India and such gold shall thereupon vest absolutely in His Majesty.

Power to take
possession of
imported
gold.

(2) Where any gold is taken possession of in exercise of the powers conferred by sub-section (1), the Governor General in Council shall pay to the owner thereof, on production of such documents as the authority making the order under sub-section (1) may require, a sum in respect of such gold calculated at such rate as the Governor General in Council may ³ prescribe.

(3) If any dispute arises as to the fineness of any such gold a certificate of assay by the Assay Master of any Mint established under the ⁴ Indian Coinage Act, 1906, shall be conclusive.

III of 1906.
III of 1917

4. The Gold (Import) Ordinance, 1917, is hereby repealed.

Repeal of
Ordinance
III of 1917.

¹ For Proceedings in Council, see Gazette of India, 1917, Pt. VI, p. 1107.

² As to date of termination of the war, see Act V of 1919, *infra*.

³ For Notification prescribing such rate, see Leg. and O. W.

⁴ Genl. Acts, Vol. VI.

ACT XXIII OF 1917.¹

[27th September, 1917.]

An Act further to amend the Presidency Small Cause Courts
 Act, 1882.

WHEREAS it is expedient further to amend the ² Presidency Small Cause
 Courts Act, 1882; It is hereby enacted as follows:—

XV of 1882.

Short title.

1. This Act may be called the Presidency Small Cause Courts (Amend-
 ment) Act, 1917.

Amendment
 of section 7,
 Act XV of
 1882.

2. For the provisos in section 7 of the ² Presidency Small Cause Courts
 Act, 1882, the following shall be substituted, namely:—

XV of 1882.

“Provided that—

(1) no person shall be appointed to be Chief Judge of a Small Cause
 Court unless he is—

(a) an advocate of a High Court of Judicature established under
 the Indian High Courts Act, 1861, or the Government of
 India Act, 1915, or

24 & 25
 Vict., c. 104.
 5 & 6 Geo. 5,
 c. 61.

(b) a vakil or attorney of one of the said High Courts;

(2) no person shall be appointed to be a Judge of a Small Cause Court
 unless he is—

(a) an advocate, vakil or attorney of one of the said High Courts,
 or

(b) a Judge of a Court of Civil Judicature of not less than five
 years' standing; and

(3) of the persons so appointed to be Judges, including the Chief Judge,
 not less than one-third shall be advocates of one of the said High
 Courts.”

ACT XXIV OF 1917.³

[27th September, 1917.]

An Act to amend certain enactments and to repeal certain other
 enactments.

WHEREAS it is expedient that certain formal amendments should be made
 in the enactments specified in the First Schedule;

And whereas it is also expedient that certain enactments specified in the
 Second Schedule, which have ceased to be in force otherwise than by express

¹ For Statement of Objects and Reasons, see Gazette of India, 1917, Pt. V, p. 88; and
 for Proceedings in Council, see *ibid*, 1917, Pt. VI, pp. 859 and 1109.

² Genl. Acts, Vol. III.

³ For Statement of Objects and Reasons, see Gazette of India, 1917, Pt. V, p. 92; and
 for Proceedings in Council, see *ibid*, 1917, Pt. VI, pp. 859 and 1109.

specific repeal, or have become unnecessary, should be expressly and specifically repealed ; It is hereby enacted as follows :—

1. This Act may be called the Repealing and Amending Act, 1917. Short title.
2. The enactments specified in the First Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof. Amendment of certain enactments.
3. The enactments specified in the Second Schedule are hereby repealed to the extent mentioned in the fourth column thereof. Repeal of certain enactments.
4. The repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to ; Saving.

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued, or incurred or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing ;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognised or derived by, in or from any enactment hereby repealed ;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE.

AMENDMENTS.

(See Section 2.)

| 1 | 2 | 3 | 4 |
|-------|-----|--------------------------|--|
| Year. | No. | Short title. | Amendments. |
| 1870 | VII | The Court-fees Act, 1870 | In section 2, clause (a), after the words " St. George," the words " the Presidency of Fort William in Bengal " shall be inserted ; and for the word " Bengal," the words " Bihar and Orissa " shall be substituted. |

THE FIRST SCHEDULE—*contd.*

AMENDMENTS.

(See Section 2.)

| 1 | 2 | 3 | 4 |
|------|--------------------|---|--|
| Year | No. | Short title. | Amendments. |
| 1870 | VII— <i>contd.</i> | The Court-fees Act, 1870— <i>contd.</i> | In section 3, for the words "Statute 24 & 25 Victoria, Chapter 104, section 15" the following shall be substituted, namely — "Section 15 of the Indian High Courts Act, 1861, or section 107 of the Government of India Act, 1915." |
| 1872 | IX | The Indian Contract Act, 1872 | In section 133, after the word "principal" the word "debtor" shall be inserted. |
| 1897 | X | The General Clauses Act, 1897 | In section 3, to each of clauses (3a), (5), (5a), (6), (8a), (8b), (30), (44a), (46) and (55a), the following shall be added, namely — "or the Government of India Act, 1915." In section 5, for sub-section (2), the following shall be substituted, namely :— "Where any Act of the Governor General in Council is reserved, under section 68 of the Government of India Act, 1915, for the signature of His Majesty's pleasure hereon, then, if no later date is expressed, it shall come into operation, if assented to by His Majesty, on the day on which that assent is duly notified." To section 30, the following shall be added, namely :— "on section 72 of the Government of India Act, 1915." |
| 1908 | V | The Code of Civil Procedure, 1908. | In section 127, for the word "sanctioned" the word "approved" shall be substituted. In section 130 for the word "sanction" the word "approval" shall be substituted. |

THE FIRST SCHEDULE—*concl'd.*

AMENDMENTS.

(See section 2.)

| 1 | 2 | 3 | 4 |
|-------|-----|--|--|
| Year. | No. | Short title. | Amendments. |
| 1912 | VI | The Indian Life Assurance Companies Act, 1912. | <p>In section 28, for the words "publish in the Gazette of India and cause to be published in the local official Gazette of the Province in which the life assurance company has its principal place of business" the following shall be substituted, namely — "cause to be published in such manner as he may direct, a summary of."</p> <p>And in the same section after the words "the preceding year" the words "by every life assurance company" shall be inserted and for the words "such accounts, balance sheets, abstracts, statements or other documents" the words "such summary" shall be substituted.</p> |

Regulation by the Governor General in Council.

| | | | |
|------|---|--|--|
| 1916 | I | The Aikan Hill District Laws Regulation, 1916. | In Schedule I, Part I, for the words "The Indian Airships Act, 1911" the words "The Indian Aircraft Act, 1911" shall be substituted. |
|------|---|--|--|

THE SECOND SCHEDULE.

REPEALS.

(See section 3.)

| 1 | 2 | 3 | 4 |
|-------|-----|---------------------------------------|--|
| Year. | No. | Short title. | Extent of repeal. |
| 1872 | IX | The Indian Contract Act, 1872 | The second <i>Illustration</i> to section 21. |
| 1898 | IV | The Peshawar Canals Regulation, 1898. | The whole Regulation, with effect from the 19th day of February, 1907. |

Regulation by the Governor General in Council.

ACT No. XXVI OF 1917.¹

[27th September, 1917.]

An Act to validate certain transfers of property made prior to the 1st of January, 1915.

WHEREAS it is expedient to validate certain transfers of property made prior to the 1st of January, 1915 ; It is hereby enacted as follows:—

Short title
and extent.

1. (1) This Act may be called the Transfer of Property (Validating) Act, 1917.

(2) It shall extend, in the first instance, to the United Provinces of Agra and Oudh, provided that the Governor General in Council may, by notification in the Gazette of India, extend it to any other part of British India specified in the notification.

Validation of
certain
transfers
made prior
to the 1st of
January,
1915.

2. Where a mortgage or gift purports to have been effected by an instrument executed prior to the 1st of January, 1915, and such instrument is required by the ² Transfer of Property Act, 1882, to be attested, such mortgage or gift shall not be deemed to be invalid by reason only that any person who purported to attest such instrument as a witness did not see the executant sign it, provided that such person before signing his name on the instrument received from the executant a personal acknowledgment of his signature to the same. IV of 1882.

Restoration
of certain
claims.

3. Where a claim under any such instrument executed prior to the 1st of January, 1915, has been wholly or in part dismissed, rejected, or withdrawn, after the 30th day of July, 1912 and before the commencement of this Act, in a Court of first instance or of revision or appeal, by reason only of the fact that some person who purported to attest such instrument as a witness, on having received before signing his name thereon a personal acknowledgment from the executant of his signature to the same, did not see the executant sign it, the case may, if the dismissal, rejection or withdrawal has had the effect of invalidating, in whole or in part, the said instrument as between persons claiming thereunder, be restored on review in accordance with the procedure provided by the ³ Code of Civil Procedure, 1908, for review of judgments, on application in writing made within six months from the commencement of this Act ; and on such restoration, the provisions of section 2 shall apply to such instrument : Act V of 1908.

¹ For Statement of Objects and Reasons, see Gazette of India, 1916, Pt. V, p. 81, for Report of Select Committee, see *ibid.*, 1917, Pt. V, p. 29, and for Proceedings in Council, see *ibid.*, 1916, Pt. VI, pp. 321, 508, and *ibid.*, 1917, Pt. VI, pp. 206 and 1111.

² Genl. Acts, Vol. III.

³ Genl. Acts, Vol. VI.

Provided nevertheless—

- (1) that every Court to whom such an application is made shall have a discretion to refuse the same if it is of opinion that such restoration would prejudice the rights of any transferee for value in good faith under any transfer made subsequent to the said 30th day of July, 1912 ;
- (2) that in the event of a decree being passed upon such application in favour of the applicant or his legal representative, interest shall only be allowed under such instrument at the contractual rate up to the date of the original dismissal, rejection or withdrawal of such claim, and for a period of six months therefrom, and at the rate of 6 per cent. thereafter until realization ; and
- (3) that in the event of the case being so restored the Court shall be bound by the finding of the former Court, by or before whom the case was dismissed, rejected or withdrawn, on any issue of fact which was heard and finally determined by it.

ACT No. I OF 1918.¹

[27th February, 1918.]

An Act further to amend the Indian Forest Act, 1878.

VII of 1872. WHEREAS it is expedient further to amend the ²Indian Forest Act, 1878 ;
It is hereby enacted as follows :—

1. This Act may be called the Indian Forest (Amendment) Act, 1918. Short title.
- VII of 1878. 2. In clause (b) of section 29 of the ²Indian Forest Act, 1878 (herein- Amendment
of section
29, Act VII
of 1878.
after referred to as the said Act), for the word “twenty” the word “thirty”
shall be substituted.
3. After section 52 of the said Act, the following section shall be inserted, Insertion of
new section
52A, Act
VII of 1878.
namely :—
“52A. Any Forest-officer of a rank not inferior to that of a Ranger who,
or whose subordinate, has seized any tools, boats, carts or cattle under the Power to
release pro-
perty seized
under sec-
tion 52.
provisions of section 52, may release the same on the execution by the owner

¹ For Statement of Objects and Reasons, see Gazette of India, 1918, Pt. V, p. 2 ;
and for Proceedings in Council, see *ibid*, 1918, Pt. VI, pp. 40 and 140.

² Genl. Acts, Vol. II.

thereof of a bond for the production of the property so released, if and when so required, before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made."

Amendment
of section 63,
Act VII of
1878.

4. In section 63 of the said Act after the words "without unnecessary delay," the words "and subject to the provisions of this Act as to release on a bond" shall be inserted.

Insertion of
new section
63A, Act
VII of 1878.

5. After section 63 of the said Act, the following section shall be inserted, namely :—

Power to
release on a
bond a per-
son arrested.

"63A. Any Forest-officer of a rank not inferior to that of a Ranger who or whose subordinate has arrested any person under the provisions of section 63, may release such person on his executing a bond to appear, if and when so required, before the Magistrate having jurisdiction in the case, or before the officer in charge of the nearest police-station."

Amendment
of section
78, Act VII
of 1878.

6. (1) Section 78 of the said Act shall be renumbered section 78 (1), and in the same section for the words "shall assist any Forest-officer or Police-officer—

- (a) in extinguishing any fire occurring in such forest ;
- (b) in preventing any fire which may occur in the vicinity of such forest from spreading to such forest,"

the following words shall be substituted, namely :—

"shall forthwith take steps, whether so required by any Forest-officer or Police-officer or not,—

- (a) to extinguish any forest fire in such forest of which he has knowledge or information ;
- (b) to prevent by any lawful means in his power any fire in the vicinity of such forest of which he has knowledge or information from spreading to such forest."

(2) To the same section the following sub-section shall be added, namely :—

"(2) Any person who, being bound so to do, without lawful excuse (the burden of proving which shall lie upon such person), fails—

- (a) to furnish without unnecessary delay to the nearest Forest-officer or Police-officer any information required by sub-section (1) ;
- (b) to take steps as required by sub-section (1) to extinguish any forest fire in a reserved or protected forest ;
- (c) to prevent, as required by sub-section (1), any fire in the vicinity of such forest from spreading to such forest ; or

(d) to assist any Forest-officer or Police-officer demanding his aid in preventing the commission in such forest of any forest-offence, or, when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

7. In section 84 of the said Act,—

(1) for the words “in compliance with any rule under this Act,” the words “in accordance with any provision of this Act or in compliance with any rule made thereunder” shall be substituted ;

Amendment
of section 84,
Act VII of
1878.

(2) for the word “instrument” wherever it occurs, the words “bond or instrument” shall be substituted.

ACT No II of 1918.¹

[6th March, 1918.]

An Act to make provision for regulating exhibitions by means of Cinematographs.

WHEREAS it is expedient to make provision for regulating exhibitions by means of cinematographs ; It is hereby enacted as follows :—

1. (1) This Act may be called the Cinematograph Act, 1918.

(2) It extends to the whole of British India, including British Baluchistan.

Short title,
extent and
commence-
ment.

(3) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, direct.

2. In this Act, unless there is anything repugnant in the subject or Definition-context,—

“cinematograph” includes any apparatus for the representation of moving pictures or series of pictures ;

“place” includes also a house, building, tent or vessel ; and

“prescribed” means prescribed by rules made under this Act.

¹ For Statement of Objects and Reasons, *see* Gazette of India, 1917, Pt. V, p. 74 ; for Report of Select Committee, *see ibid*, 1918, Pt. V, p. 11 ; and for Proceedings in Council, *see ibid*, 1917, Pt. VI, p. 703, and *ibid*, 1918, Pt. VI, pp. 38, 94 and 275.

Cinematograph exhibitions to be licensed

3. Save as otherwise provided in this Act, no person shall give an exhibition by means of a cinematograph elsewhere than in a place licensed under this Act, or otherwise than in compliance with any conditions and restrictions imposed by such license.

Licensing authority.

4. The authority having power to grant licenses under this Act (hereinafter referred to as the "licensing authority") shall be the District Magistrate, or, in a presidency-town or in the town of Rangoon, the Commissioner of Police :

Provided that the Local Government may, by notification in the local official gazette, constitute for the whole or any part of a Province such other authority as it may specify in the notification to be the licensing authority for the purposes of this Act.

Restrictions on powers of licensing authority

5. (1) The licensing authority shall not grant a license under this Act, unless it is satisfied that—

(a) the rules made under the Act have been substantially complied with ; and

(b) adequate precautions have been taken in the place in respect of which the license is to be given to provide for the safety of persons attending exhibitions therein.

(2) A condition shall be inserted in every license that the licensee will not exhibit, or permit to be exhibited, in such place any film other than a film which has been certified as suitable for public exhibition by the prescribed authority, and which, when exhibited, displays the prescribed mark of that authority, and has not been altered or tampered with in any way since such mark was affixed thereto.

(3) Subject to the foregoing provisions of this section, and to the control of the Local Government, the licensing authority may grant licenses under this Act to such persons as it thinks fit, and on such terms and conditions and subject to such restrictions as it may determine.

Punishment for contravention of this Act and rules made thereunder.

6. (1) If the owner or person in charge of a cinematograph uses the same or allows it to be used, or if the owner or occupier of any place permits that place to be used, in contravention of the provisions of this Act or the rules made thereunder, or of the conditions and restrictions upon, or subject to which, any license has been granted under this Act, he shall be punishable with fine which may extend to one thousand rupees and, in the case of a continuing offence, with a further fine which may extend to one hundred rupees for each day during which the offence continues, and his license (if any) shall be liable to be revoked by the licensing authority.

(2) If any person is convicted of an offence punishable under this Act

committed by him in respect of any film, the convicting Court may further direct that the film shall be forfeited to His Majesty.

7. (1) The Governor General in Council shall, by notification in the Gazette of India, constitute as many authorities as he may think fit for the purposes of examining and certifying films as suitable for public exhibition. The certificate of any such authority shall be valid in such area as may be specified in the notification. ^{Certification of films.}

(2) If any such authority after examination considers that a film is suitable for public exhibition, it shall cause the film to be marked in the prescribed manner.

(3) If the authority is of opinion that a film is not suitable for public exhibition, it shall inform the person applying for the certificate of its decision, and such person may, within thirty days from the date of such decision, appeal for a reconsideration of the matter by the Local Government, whose decision shall be final.

(4) Where the area for which a certificate has been granted includes territory in more than one Province, the appeal shall lie to such Local Government as may be specified in that behalf in the notification under which the certifying authority is constituted.

(5) The District Magistrate or, in a presidency-town or in the town of Rangoon, the Commissioner of Police, may, after recording his reasons in writing, by order suspend the certificate of any film pending the orders of the Local Government, and during such suspension the film shall be deemed to be an uncertified film in that district or town. He shall forthwith forward a copy of his order to the Local Government to which he is subordinate, and such Local Government may, in its discretion, either discharge his order or by notification in the local official gazette, direct that the film shall be deemed to be an uncertified film in the whole or any part of the Province.

(6) The Local Government may, of its own motion, by notification in the local official gazette, direct that a film covered by a certificate valid in the Province shall be deemed to be an uncertified film in the whole or any part of the Province.

(7) The exhibition of a film to which any order or direction under subsection (5) or (6) is for the time being applicable shall, in the area to which such order or direction relates, be deemed to be a contravention of the condition mentioned in section 5 (2).

8. (1) The Governor General in Council may make rules for the purpose of carrying into effect the provisions of this Act. ^{Power to make rules.}

(2) In particular and without prejudice to the generality of the foregoing power, rules under this section may provide for—

- (a) the regulation of cinematograph exhibitions for securing the public safety ;
- (b) the procedure of the authorities constituted for examining and certifying films as suitable for public exhibition, and all matters ancillary thereto, and the fees to be levied by those authorities ; and
- (c) any other matter which by this Act is to be prescribed.

(3) The Governor General in Council may delegate to a Local Government the power to make rules regarding the matters mentioned in sub-section (2) (a) so far as regards the territories subject to that Government.

(4) All rules made under this Act shall be published in the Gazette of India, or the local official gazette, as the case may be, and, on such publication, shall have effect as if enacted in this Act.

Power to
exempt.

9. The Local Government may, by order in writing, exempt, subject to such conditions and restrictions as it may impose, any cinematograph exhibition or class of cinematograph exhibitions from any of the provisions of this Act or of any rule made thereunder.

ACT No. III of 1918.¹

[6th March, 1918.]

An Act to provide for the levy of a cess on indigo exported from British India.

WHEREAS it is expedient to provide funds for the promotion of research in the interests of the indigo industry in India ;

And whereas for this purpose it is expedient to levy a cess on indigo produced in India and exported from British India ; It is hereby enacted as follows :—

Short title
and com-
mencement.

1. (1) This Act may be called the Indigo Cess Act, 1918 ; and

(2) It shall come into force on the first day of April, 1918.

Imposition
of duty on
exports of
indigo and
preparations
thereof.

2. (1) There shall be levied and collected on all indigo produced in India and exported from any customs-port to any port beyond the limits of British India or to Aden a cess at the rate of one rupee per maund of 82 $\frac{2}{7}$ pounds avoirdupois :

¹ For Statement of Objects and Reasons, see Gazette of India, 1918, Pt V, p. 4, and for Proceedings in Council, see *ibid*, 1918, Pt. VI, pp. 95 and 285.

Provided that, where any preparation of indigo mixed with any other substance for use as a dye is so exported, the cess shall be levied on such proportion of the total weight of such preparation as the Governor General in Council may determine by rule under this Act.

(2) In this section the expression "customs-port" has the same meaning VIII of 1878. as in the ¹Sea Customs Act, 1878, and the cess levied shall be deemed to be a VIII of 1894. customs-duty for the purposes of section 5 of the ²Indian Tariff Act, 1894.

3. The proceeds of the cess collected under this Act shall be applied to meet the cost of such measures as the Governor General in Council may consider it advisable to take for promoting research in the interests of the indigo industry in India. Application of proceeds of cess.

4. The Governor General in Council may make rules consistent with this Act— Power to make rules.

- (a) for regulating the method of assessing, levying and collecting the cess ;
- (b) for prescribing the particular purposes to which the cess may be applied ; and
- (c) generally for carrying out the purposes of this Act.

ACT No. IV OF 1918.³

[6th March, 1918.]

An Act further to amend the Indian Coinage Act, 1906.

III of 1906. WHEREAS it is expedient further to amend the ⁴Indian Coinage Act, 1906 ; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Coinage (Amendment) Act, 1918. Short title and commencement.

(2) It shall come into force on such date⁵ as the Governor General in Council may, by notification in the Gazette of India, direct.

III of 1906. 2. In section 4 of the ²Indian Coinage Act, 1906 (hereinafter referred to as the said Act), the words " and (d) an eighth of a rupee, or two-anna piece " shall be omitted. Amendment of section 4, Act III of 1906.

¹ Genl. Acts, Vol. II.

² Genl. Acts, Vol. IV.

³ For Statement of Objects and Reasons, see Gazette of India, 1918, Pt. V, p. 5 ; and for Proceedings in Council, see *ibid*, 1918, Pt. VI, pp. 96 and 285.

⁴ Genl. Acts, Vol. VI

⁵ The 1st April, 1918, see Gazette of India, 1918, Pt. I, p. 127.

Amendment
of section 5,
Act III
of 1903.

3. In sub-section (2) of section 5 of the said Act, for the third and fourth items in the table annexed to the proviso, the following shall be substituted, namely :—

| " Quarter-rupee. | Seven-thousandths. | Three-thousandths." |
|------------------|--------------------|---------------------|
|------------------|--------------------|---------------------|

Substitution
of new sec-
tion for sec-
tion 6, Act
III of 1906.

4. For section 6 of the said Act, the following section shall be substituted, namely :—

Nickel coins.

" 6. The following nickel coins only shall be coined at the Mint for issue under the authority of the Governor General in Council, namely : a two-anna piece and a one-anna piece."

Amendment
of section 7,
Act III
of 1906.

5. In section 7 of the said Act, for the words " one-anna piece shall be sixty grains Troy," the words " two-anna and one-anna pieces shall be ninety and sixty grains Troy, respectively," shall be substituted.

Amendment
of section 12,
Act III
of 1906.

6. In sub-section (2) of section 12 of the said Act, the words " and eighth of a rupee " shall be omitted.

Substitution
of new sec-
tion for sec-
tion 13, Act
III of 1906.
Nickel coin
when a legal
tender.

7. For section 13 of the said Act, the following section shall be substituted, namely :—

" 13. The two-anna and one-anna nickel coins specified in section 6 shall be a legal tender in payment or on account for any sum not exceeding one-rupee at the rate of eight and sixteen for a rupee respectively."

Saving of
the provi-
sions of Act
III of 1906
in respect of
silver two-
anna pieces.

8. Nothing in this Act shall apply to silver two-anna pieces which may have been issued prior to the commencement of this Act, and the provisions of the said Act shall apply to them as if this Act had not been passed.

THE INDIAN INCOME-TAX ACT, 1918.

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ACT No. VII OF 1918.¹

[19th March, 1918.]

An Act to consolidate and amend the law relating to Income-tax.

WHEREAS it is expedient to consolidate and amend the law relating to Income-tax; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Income-tax Act, 1918.
- (2) It extends to the whole of British India, including the Sonthal Parganas, and applies also, within the dominions of Princes and Chiefs in India in alliance with His Majesty, to British subjects in those dominions who are in the service of the Government of India or of a local authority established in the exercise of the powers of the Governor General in Council in that behalf, and to all other servants of His Majesty in those dominions; and
- (3) It shall come into force on the 1st day of April, 1918.

Short title,
extent and
commence-
ment.

¹For Statement of Objects and Reasons, see Gazette of India, 1917, Pt V, p. 147; for Report of Select Committee, see *ibid.*, 1918, Pt. V, p. 21; and for Proceedings in Council, see *ibid.*, 1918, Pt VI, pp. 212, 273 and 511.

For extension to British Baluchistan of so much of the Act as relates to tax on salaries of officials see Notification No. 1148-R, dated 25th March, 1918, Gazette of India, 1918, Pt II, p. 302. The Act has been extended to the Shan States under s. 10 of the Burma Laws Act, 1898, see Burma Gazette, 1918, Pt. I, p. 718; and declared in force in the Angul District under s. 5 of the Angul Laws Regulation, 1913, see Bihar and Orissa Gazette, 1918, Pt. II, p. 1218.

Definitions. 2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "Agricultural income" means—

(a) any rent or revenue derived from land which is used for agricultural purposes, and is either assessed to land-revenue or subject to a local rate assessed and collected by officers of Government as such ;

(b) any income derived from—

(i) agriculture, or

(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, when he does not keep a shop or stall for the sale of such produce, or

(iv) any building owned and occupied by the receiver of the rent or revenue of any such land as is referred to in clause (a), or occupied by the cultivator, or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any operation mentioned in sub-clauses (ii) and (iii) is carried on :

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue, or the cultivator or the receiver of the rent-in-kind, by reason of his connection with the land, requires as a dwelling-house, or as a store-house, or other out-building ;

(2) "Assessee" means a person by whom income-tax is payable, and includes a firm and a Hindu undivided family ;

(3) "Business" includes any trade, commerce, or manufacture or any adventure or concern in the nature of trade, commerce or manufacture ;

(4) "Chief Revenue-authority" means the Board of Revenue or the Financial Commissioner in Provinces where those authorities exist, and in any other case such authority as the Local Government may declare to be the Chief Revenue-authority for the purposes of this Act ;

(5) "Collector" includes any officer whom the Local Government may appoint to exercise or perform all or any of the powers or duties conferred by this Act on a Collector, and means in relation to any

assessee carrying on business, the Collector of the place where the principal place of business of such assessee is situate, and in relation to any other assessee the Collector of the place where such assessee resides ;

(6) "Commissioner" includes any officer whom the Local Government may appoint to exercise or perform all or any of the powers or duties conferred by this Act on a Commissioner ;

VII of 1913. (7) "Company" means a company as defined in the ¹Indian Companies Act, 1913, or formed in pursuance of an Act of Parliament or of Royal Charter or Letters Patent, or of an Act of the legislature of a British possession, and includes any foreign association carrying on business in British India whether incorporated or not, and whether its principal place of business is situate in British India or not, which the Governor General in Council may, by general or special order, declare to be a company for the purposes of this Act ;

(8) "Local authority" includes any person legally entitled to the control or management of any municipal or local fund ;

(9) "Magistrate" means a Presidency Magistrate or a Magistrate of the first class or a Magistrate of the second class specially empowered by the Local Government to try offences against this Act ;

(10) "Prescribed" means prescribed by rules made under this Act ;

(11) "Previous year" means the twelve months ending on the 31st day of March next preceding the year for which the assessment is to be made, or, if the accounts of the assessee have been made up within the said twelve months in respect of a year ending on any date other than the said 31st day of March, then at the option of the assessee the year ending on the day on which his accounts have so been made up :

Provided that, if this option has once been exercised by the assessee, it shall not again be exercised so as to vary the meaning of the expression "previous year" as then applicable to such assessee, except with the consent of the Collector and upon such conditions as he may think fit ;

(12) "Principal officer" used with reference to a local authority or a company or any other public body or association, not being a local authority or company, means—

(a) the secretary, treasurer, manager or agent of the authority, company, body or association, or

(b) any person connected with the authority, company, body or association upon whom the Collector has served a notice of his intention of treating him as the principal officer thereof ; and

¹ Genl. Acts, Vol. VII.

(15) "Total income" means total income from all sources to which this Act applies.

CHAPTER I.

TAXABLE INCOME.

Application
of Act.

3. (1) Save as hereinafter provided, this Act shall apply to all income from whatever source it is derived, if it accrues or arises or is received in British India, or is, under the provisions of this Act, deemed to accrue or arise or to be received in British India.

(2) This Act shall not apply to the following classes of income.—

- (i) Any income derived from property held under trust or other legal obligation wholly for religious or charitable purposes, and in the case of property so held in part only for such purposes, the income applied, or finally set apart for application, thereto.
- (ii) Any income of a religious or charitable institution derived from voluntary contributions and applicable solely to religious or charitable purposes.
- (iii) The income of local authorities.
- (iv) Interest on securities which are held by, or are the property of, any Provident Fund to which the ¹Provident Funds Act, 1897, IX of 1897, applies, or any Provident Insurance Society to which the ²Provident Insurance Societies Act, 1912, is, or, but for an V of 1912, exemption under that Act, would be, applicable.
- (v) Any capital sum received in commutation of the whole or a portion of a pension, or in the nature of consolidated compensation for death or injuries, or in payment of any insurance policy, or as the accumulated balance at the credit of a subscriber to any such Provident Fund.
- (vi) Any special allowance, benefit or perquisite specifically granted to meet expenses wholly and necessarily incurred in the performance of the duties of an office or employment of profit.
- (vii) Legacies.
- (viii) Any receipts not being receipts arising from business or the exercise of a profession, vocation, or occupation, which are of a casual and non-recurring nature, or are not by way of addition to the remuneration of an employé.
- (ix) Any perquisite or benefit which is neither money nor reasonably capable of being converted into money.

¹ Genl. Acts, Vol IV

² Genl. Acts, Vol. VII.

In this sub-section "charitable purpose" includes relief of the poor, education, medical relief, and the advancement of any other object of general public utility.

4. Agricultural income shall not be chargeable to income-tax.

Agricultural
income.
Classes of
income
chargeable to
income-tax.

5. Save as otherwise provided by this Act, the following classes of income shall be chargeable to income-tax in the manner hereinafter appearing, namely:—

- (i) Salaries.
- (ii) Interest on securities.
- (iii) Income derived from house property.
- (iv) Income derived from business.
- (v) Professional earnings.
- (vi) Income derived from other sources.

6. (1) The tax shall be payable by an assessee under the head "Salaries" in respect of any salary or wages, any annuity, pension or gratuity, and any fees, commissions, perquisites or profits received by him in lieu of, or in addition to, any salary or wages which are paid by or on behalf of Government, a local authority, a company, or any other public body or association, not being a local authority or company, or by or on behalf of any private employer where such employer has entered into an agreement with the Collector in accordance with the prescribed conditions to recover the tax on behalf of Government, provided that the tax shall not be payable in respect of—

- (i) any salary not exceeding five hundred rupees per mensem received by any member of His Majesty's Forces, or of His Majesty's Indian Forces, as the pay of an appointment which is ordinarily reserved exclusively for members of those Forces; or
- (ii) any sum deducted under the authority of Government from the salary of any individual for the purpose of securing to him a deferred annuity or of making provision for his wife or children, provided that the sum so deducted shall not exceed one-sixth of the salary.

(2) Any income which would be chargeable under this head if paid in British India shall be deemed to be so chargeable if paid to a British subject or any servant of His Majesty in any part of India by Government or by a local authority established by the Governor General in Council.

7. The tax shall be payable by an assessee under the head "Interest on securities" in respect of the interest receivable by him on any security of the Government of India, or on debentures or other securities for money issued by or on behalf of a local authority or a company :

Interest on
securities.

Provided that no tax shall be payable on the interest receivable on any security of the Government of India issued or declared to be income-tax free.

Income derived from house property. 8. The tax shall be payable by an assessee under the head "Income derived from house property" in respect of the *bond fide* annual value of any house property of which he is the owner, subject to the following allowances, namely :—

- (i) where the property is in the occupation of the owner, or where it is let to a tenant and the owner has undertaken to bear the cost of repairs, a sum equal to one-sixth of such value ;
- (ii) where the property is in the occupation of a tenant who has undertaken to bear the cost of repairs, the difference between such value and the rent paid by the tenant up to but not exceeding one-sixth of such value ;
- (iii) the amount of any annual premium paid to insure the property against risk of damage or destruction ;
- (iv) where the property is subject to a mortgage or charge or to a ground rent, the amount of any interest on such mortgage or charge or of any such ground rent ;
- (v) any sums paid on account of land-revenue in respect of the property ;
- (vi) in respect of collection charges, a sum not exceeding the prescribed maximum ;
- (vii) in respect of vacancies, such sum as the Collector may determine having regard to the circumstances of the case.

For the purposes of this section and section 9, the expression "annual value" shall be deemed to mean the sum for which the property might reasonably be expected to let from year to year :

Provided that, where house property is in the occupation of the owner, such sum shall, for the purposes of this section, be deemed not to exceed ten per cent. of the aggregate income of the owner.

Income derived from business. 9. (1) The tax shall be payable by an assessee under the head "Income derived from business" in respect of the profits of any business carried on by him.

(2) Such profits shall be computed after making the following allowances in respect of sums paid, or, in the case of depreciation, debited, namely :—

- (i) any rent paid for the premises in which such business is carried on, or where the premises are owned by the assessee the *bond fide* annual value thereof, provided that when any substantial part

of the premises is used as a dwelling-house by the assessee, the allowance under this clause shall be such sum as the Collector may determine having regard to the proportional part so used ;

- (ii) in respect of repairs, where the assessee is the tenant only of the premises, and has undertaken to bear the cost of such repairs, the amount actually expended thereon, provided that if any substantial part of the premises is used by the assessee as a dwelling-house, a proportional part only of such amount shall be allowed ;
- (iii) in respect of capital borrowed for the purposes of the business, where the payment of interest thereon is not in any way dependent on the earning of profits, the amount of the interest paid ;
- (iv) in respect of insurance against risk of damage or destruction of buildings, machinery or plant, used for the purposes of the business, the amount of any premium paid ;
- (v) in respect of current repairs to buildings, machinery or plant, the amount actually expended thereon ;
- (vi) in respect of depreciation of such buildings, machinery or plant being the property of the assessee, a sum not exceeding a percentage on the original cost thereof to the assessee, to be fixed, subject to the approval of the Governor General in Council, by the Local Government for different classes of buildings, machinery or plant having regard to the estimated life thereof, in determining which it shall be assumed that current repairs are executed from time to time :

Provided that—

- (a) no such allowance shall be made unless the amount claimed has actually been debited in the ordinary accounts of the business for the previous year, and the prescribed particulars have been duly furnished ;
- (b) when in any year the full allowance admissible has not been claimed, the balance may be added to the allowance made for the following year or years ;
- (c) the aggregate of the allowances made under this sub-head either under this Act or any Act repealed thereby shall, in no case, exceed the original cost to the assessee of the buildings, machinery or plant, as the case may be ;

- (vii) in respect of any machinery or plant which has been sold or discarded as obsolete, the difference between the original cost to the assessee of the machinery or plant as reduced by the aggregate of the allowances made in respect of depreciation under clause (vi), and the amount for which the machinery or plant is actually sold, or its scrap value ;
- (viii) any sums paid on account of land-revenue, local rates or municipal taxes in respect of the premises ;
- (ix) in respect of any expenditure (not being in the nature of capital expenditure) incurred solely for the purpose of earning such profits.

Professional
earnings.

10. (1) The tax shall be payable by an assessee under the head " Professional earnings " in respect of the profits of any profession, or vocation, followed by him.

(2) Such profits shall be computed after making allowance for any expenditure (not being in the nature of capital expenditure) incurred solely for the purposes of such profession or vocation, provided that no allowance shall be made on account of any personal expenses of the assessee.

(3) Professional fees paid in any part of India to a person ordinarily resident in British India shall be deemed to be income chargeable under this head.

Income de-
rived from
other
sources.

11. (1) The tax shall be payable by an assessee under the head " Income derived from other sources " in respect of income and profits of every kind and from every source to which this Act applies (if not included under any of the preceding heads) with the exception of agricultural income

(2) Such income and profits shall be computed after making allowance for any expenditure (not being in the nature of capital expenditure) incurred solely for the purpose of making such income or earning such profits, provided that no allowance shall be made on account of any personal expenses of the assessee.

Exclusions of
a general
nature.

12. (1) In computing the amount of the income chargeable to income-tax in the case of an assessee under any of the foregoing heads, no account shall be taken of any income which the assessee enjoys as a member of a company or of a firm or of an undivided Hindu family where the company, the firm or the family is liable to the tax.

(2) There shall also be excluded from the computation any sum paid by the assessee to effect an insurance on his own life, or on the life of his wife, or in respect of a contract for a deferred annuity on his own life or on the life of his wife or as a contribution to any provident fund to which the

IX of 1897, ¹Provident Funds Act, 1897, applies, or to any provident fund which complies with the provisions of the ²Provident Insurance Societies Act, 1912, or has been exempted from the provisions of that Act :

Provided that the aggregate of any sums so excluded shall not, after taking into account any exemptions allowed in respect of like provision under the head "Salaries," exceed one-sixth of the income of the assessee which would, apart from such exclusion and exemption, be chargeable to income-tax.

13. In computing the total income of an assessee for the purposes of Schedule I, salaries and deductions exempted under the proviso to section 6 (1), income mentioned in section 12 (1), and sums excluded under section 12 (2) shall be taken into account. Treatment of exemptions and exclusions in determining total income.

14. (1) The aggregate amount of an assessee's income chargeable under each of the heads mentioned in sections 6 to 11 shall be the taxable income of the assessee. Taxable income and levy of tax thereon.

(2) Subject to the conditions hereinbefore set out, there shall be levied, in respect of the year beginning with the 1st day of April, 1918, and in respect of each subsequent year by collection in that year and subsequent adjustment as hereinafter provided, income-tax upon every assessee in respect of his taxable income in that year at the rate specified in Schedule I :

Provided that, where the assessee is a company or a firm constituted under a registered instrument of partnership specifying the individual shares of the partners and the taxable income of such company or firm is ³[two] thousand rupees per annum or upwards, income-tax shall be levied at the maximum rate specified in Schedule I.

CHAPTER II.

DEDUCTIONS AND ASSESSMENT.

15. (1) Income-tax shall, unless otherwise prescribed in the case of any Payment, security of the Government of India, be deducted at the time of payment in respect of income chargeable under the following heads :—

(i) "Salaries;" and

(ii) "Interest on securities."

(2) An employer or other person responsible for paying any income chargeable under the head "Salaries" shall, at the time of payment, deduct income-tax on the amount payable at the rate specified in Schedule I in respect of such

¹ Genl. Acts, Vol. IV.

² Genl. Acts, Vol. VII.

³ The word "two" was substituted for "one" in the proviso to s. 14 (2) by s. 2 of Act IV of 1919, *infra*.

amount, provided that, if the payment is a recurring one and in respect of any period less than a year, the rate shall be determined with reference to the amount which would be proportionately payable in a year. The deduction so made shall be treated as a payment of income-tax on behalf of the person from whose earnings the deduction was made, and credit shall be given to him therefor in the next adjustment under section 19

(3) The person responsible for paying any income chargeable under the head "Interest on securities" shall, at the time of payment, deduct income-tax on the amount of the interest payable at the maximum rate specified in Schedule I. The deduction so made shall be treated as payment of income-tax on behalf of the owner of the security, and credit shall be given to him therefor in the next adjustment under section 19 :

Provided that, if the owner of the security obtains a refund of any portion of the tax so deducted in accordance with the provisions of this Act, no credit shall be given for the amount of such refund

(4) All sums deducted in accordance with the provisions of sub-section (2) or (3) shall be paid within the prescribed time by the person making the deduction to the credit of the Government of India, or as the Governor General in Council directs.

(5) If any such person does not deduct and pay the tax as required by this section, he shall, without prejudice to any other consequences which he may incur, be deemed to be personally in default in respect of the tax.

(6) The power to deduct under this section shall be without prejudice to any other mode of recovery.

(7) In the case of income chargeable under any other head than those above mentioned, the tax shall be payable by the assessee direct, and shall be the amount assessed under this Act subject to such adjustment as aforesaid

Annual
return.

16. The prescribed person in the case of every Government office, and the principal officer of every local authority, and of every company, and of every other public body or association not being a local authority or company, and every private employer who has agreed to recover income-tax on behalf of Government shall prepare, and, within fifteen days from the 31st day of March in each year, deliver or cause to be delivered to the Collector, in the prescribed form, a return in writing showing—

- (a) the name and, so far as it is known, the address, of every person who was receiving on the said 31st day of March, or has received during the year ending on that date, from the authority, company, body, association or private employer, as the case may be, any income chargeable under the head "Salaries" of

such amount as may be prescribed not being less than six hundred rupees per annum ;

- (b) the amount of the income so received by each such person, and the time or times at which the same was paid ;
- (c) the amount deducted in respect of income-tax from each such person.

17. (1) The principal officer of every company shall prepare, and, on or before the 15th day of June in each year, deliver or cause to be delivered to the Collector a return in the prescribed form and verified in the prescribed manner of the total income of the company during the previous year : Return by assessee.

Provided that the Collector may, in his discretion, extend the date for the delivery of the return in the case of any company or class of companies.

(2) In the case of any person other than a company whose taxable income is, in the Collector's opinion, not less than two thousand rupees, the Collector shall serve a notice upon him requiring him to furnish, within such period as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner setting forth (along with such other particulars as may be provided for in the notice) his total income during the previous year.

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18. (1) If the Collector is satisfied that a return made under section 17 is correct and complete, he shall assess the sum payable by the assessee for the year in which the return is made on the basis of such return. Assessment.

(2) If the Collector has reason to believe that a return made under section 17 is incorrect or incomplete, he shall serve on the person who made the return a notice requiring him, on a date to be therein mentioned, either to attend at the Collector's office and produce, or to cause to be there produced for the inspection of the Collector, such accounts and documents as the Collector may require and any evidence on which the assessee may rely in support of the return.

(3) On the day specified in the notice, or as soon afterwards as may be, the Collector, after examining such accounts and documents, and hearing any evidence which the assessee may produce and such other evidence as the Collector may require, shall, by an order in writing, determine the total income of the assessee for the previous year, and assess the sum payable by the assessee for the year in which the return is made on the basis of such determination.

(4) If the principal officer of any company or any other person fails to make a return under section ¹[17 (1) or (2)], as the case may be, or having made a return, fails to attend or fails to comply substantially with all the

¹ Sub-section (3) of s. 17 was repealed by s. 6 of Act IV of 1919, *infra*.

² These figures and word were substituted by s. 3 of Act IV of 1919, *infra*.

terms of a notice issued under section 18, sub-section (2), the Collector shall make the assessment to the best of his judgment.

(5) The sum to be assessed in every case shall be a sum calculated on the aggregate of the assessee's income in the previous year chargeable under each of the heads mentioned in sections 8 to 11 at the rate applicable to his total income in that year

Adjustment
with actual
income when
ascertained.

19. When the Collector has, in any year after the commencement of this Act for which income-tax is leviable under section 14 (2), ascertained, either from the return made by an assessee or after further inquiry, the total income actually received by or accrued to the assessee in the previous year he shall compute the income-tax which would have been payable in respect thereof if it had been levied in such previous year with reference to the amount of the income so ascertained and the law then in force; and the difference between the sum so computed and the aggregate of the sums already paid by or on behalf of the assessee in respect of income-tax for such previous year shall be paid by or refunded to the assessee, as the case may be:

Provided that no adjustment shall be made under the section in respect of any income-tax assessed or paid before the passing of this Act:

Provided also that it shall be competent to—

- (a) an assessee; or
- (b) in the case of the death or insolvency of an assessee, his representative in interest; or
- (c) with reference to any year for which income-tax is leviable under section 14 (2), the Collector;

in any year to claim an immediate adjustment to date of the sums already paid by or on behalf of an assessee in that year, upon the basis of the total income actually received by or accrued to him in that year, and upon such claim being made, all the provisions of this Chapter shall apply, so far as may be necessary, for the determination of the proper sum to be paid by or refunded to the assessee or his representative in interest, in respect of income-tax down to the date of such determination and the same shall be paid or refunded accordingly.

Notice of
demand.

20. When the Collector has determined a sum to be payable by an assessee under either section 18 or section 19, he shall serve on the assessee a notice of demand in the prescribed form specifying the sum so payable

Petition
against assess-
ment under
this Act.

21. (1) Any assessee objecting to the amount or rate at which he is assessed under section 18 or to an adjustment made under section 19, or denying his liability to be assessed under this Act may, unless he or, in the case of a company, the principal officer thereof, has knowingly and wilfully failed to

make a return under section 17, or substantially to comply with all the terms of a notice served on him under section 18, apply by petition to the Commissioner for relief against any order of the Collector in respect of such assessment or adjustment.

(2) The petition shall ordinarily be presented within thirty days of receipt of the notice of demand, but the Commissioner may receive a petition after the expiration of that period, if he is satisfied that the objector had sufficient cause for not presenting it within that period.

(3) The petition shall be in the prescribed form and verified in the prescribed manner.

22. The Commissioner shall fix a day and place for the hearing of the petition, and on the day and at the place so fixed, or on the day and at the place if any, to which he has adjourned the hearing, shall hear the petition and pass such order thereon, whether by way of confirmation, reduction, enhancement or cancellation of the assessment, or adjustment or otherwise, and fixing such time for payment, as he thinks fit. Hearing of
petition.

23. The Chief Revenue-authority may, of its own motion, call for the record of any assessment proceeding which has been taken by any officer subordinate to it, and make such inquiry and pass such orders thereon as it thinks fit : Power
review. of

Provided that it shall not pass any order enhancing the sum payable by an assessee without hearing him or giving him a reasonable opportunity of being heard either in person or by pleader.

24. If the Collector or the Commissioner in making any assessment or adjustment under this Chapter is satisfied that the assessee has concealed the particulars of his income, or has deliberately furnished inaccurate particulars of such income, and has thereby returned it below its real amount, the Collector or the Commissioner may direct that the assessee shall pay on the difference between his income as finally ascertained and the amount originally returned by him income-tax at a rate not exceeding double the rate which would otherwise have been payable : Penal
assessment.

Provided that no such order shall be made, unless the assessee has been heard, or has been given a reasonable opportunity of being heard :

Provided further that no prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penal assessment is made under this section.

25. If for any reason income chargeable under this Act has escaped assessment in any year, or has been assessed at too low a rate, the Collector may, at any time in the year next following, assess or re-assess such income and all the provisions of this Act shall apply accordingly. Income
escaping
assessment
assessable
in following
year.

Rectification
of mistake.

26. The Collector may, at any time within one year from the date of any demand made upon an assessee, rectify any mistake in connection therewith which has been brought to his notice by such assessee, and make a refund to such assessee in respect thereof

Power to take
evidence on
oath, etc.

27. The Collector or Commissioner shall, for the purposes of any inquiry under this Chapter, have the same powers as are vested in a Court under the ¹Code of Civil Procedure, 1903, when trying a suit in respect of the following matters:—

Act V of
1908.

- (a) enforcing the attendance of any person and examining him on oath or affirmation;
- (b) compelling the production of documents; and
- (c) issuing commissions for the examination of witness;

and any proceeding before a Collector or Commissioner under this Chapter shall be deemed to be a "judicial proceeding" within the meaning of sections 193 and 228 of the Indian Penal Code ²

Act XLV of
1860.

Power to call
for infor-
mation.

28. The Collector or Commissioner may, for the purposes of this Act—

- (1) require any person to furnish a return, in the prescribed form, containing, to the best of his belief, the name and address of every person employed in his service who is receiving in virtue of such employment any income not chargeable under the head "Salaries," of such amount as may be prescribed, not being less than six hundred rupees per annum;
- (2) require any firm or Hindu undivided family to furnish him with a return of the partners in the firm, or the adult male members of the family, as the case may be, and of their addresses;
- (3) require any person whom he has reason to believe to be a trustee, guardian, or agent to furnish him with a return of the names of the persons for or of whom he is trustee, guardian, or agent and of their addresses.

Power to
inspect the
register of
members of
any company.

29. The Collector or Commissioner, or any person authorised in writing in this behalf by the Collector or Commissioner, may inspect and, if necessary, take copies or cause copies to be taken of the register of members of any company or of any entry in such register.

CHAPTER III.

Summary Assessment.

[Rep., Act IV of 1919, s 6.]

¹ Genl. Acts, Vol. VI.

² Genl. Acts, Vol. I.

CHAPTER IV.

LIABILITY IN SPECIAL CASES.

31. In the case of any guardian, trustee or agent of any person being a ^{Guardians, trustees and agents.} minor, lunatic or idiot or residing out of British India (all of which persons are hereinafter in this section included in the term beneficiary) being in receipt on behalf of such beneficiary of any income chargeable under this Act, the tax shall be levied upon and recoverable from such guardian, trustee or agent, as the case may be, in like manner and to the same amount as it would be leviable upon and recoverable from any such beneficiary if of full age, sound mind, or resident in British India, and in direct receipt of such income, and all the provisions of this Act shall apply accordingly.

32. In the case of income chargeable under this Act which is received by ^{Courts of Wards, etc.} the Courts of Wards, the Administrators General, the Official Trustees or by any receiver or manager (including any person whatever his designation who in fact manages property on behalf of another) appointed by or under any order of a Court, the tax shall be levied upon and recoverable from such Court of Wards, Administrator General, Official Trustee, receiver or manager in the like manner and to the same amount as it would be leviable upon and recoverable from any person on whose behalf such income is received, and all the provisions of this Act shall apply accordingly.

33. (1) In the case of any person residing out of British India, all profits ^{Non-residents.} or gains accruing or arising to such persons whether directly or indirectly through or from any business connection in British India, shall be deemed to be income accruing or arising within British India, and shall be chargeable to income-tax in the name of the agent of any such person, and such agent shall be deemed to be for all the purposes of this Act the assessee in respect of such income-tax :

Provided that any arrears of tax may be recovered also in accordance with the provisions of this Act from any assets of the non-resident person which are, or may at any time come, within British India.

(2) Where a person not resident in British India, and not being a British subject or a firm or company constituted within His Majesty's dominions or a branch thereof, carries on business with a person resident in British India, and it appears to the Collector or the Commissioner, as the case may be, that owing to the close connection between the resident and the non-resident person and to the substantial control exercised by the non-resident over the resident, the course of business between those persons is so arranged, that the business done by the resident in pursuance of his connection with the non-resident produces to the resident either no profits or less than the ordinary

profits which might be expected to arise in that business, the profits derived therefrom or which may reasonably be deemed to have been derived¹ therefrom shall be chargeable to income-tax in the name of the resident person who shall be deemed to be, for all the purposes of this Act, the assessee in respect of such income-tax.

Agent to
include per-
sons treated
as such.

34. Any person employed by or on behalf of a person residing out of British India, or having any business connection with such person upon whom the Collector has caused a notice to be served of his intention of treating him as the agent of the non-resident person shall, for the purposes of this Act, be deemed to be such agent :

Provided that no person shall be deemed to be the agent of a non-resident person, unless he has had an opportunity of being heard by the Collector as to his liability.

CHAPTER V.

RECOVERY OF TAX.

Tax when
payable.

35. The amount of income-tax specified as payable in a notice of demand under section 20 or an order under section 22, section 23 or section 24, *
* * * * *¹ shall be paid within the time, at the place and to the person mentioned in the notice or order, or if a time is not so mentioned, then on or before the first day of the second month following the date of the notice or order, and any assessee failing so to pay shall be deemed to be in default ; provided that, when an assessee has presented a petition under section 21, the Collector may in his discretion treat the assessee as not being in default as long as such petition is undisposed of.

Mode and
time of
recovery.

36. (1) When an assessee is in default in making a payment of income-tax, the Collector, in his discretion, may recover from him a sum not exceeding double the amount of the tax, either as if it were an arrear of land-revenue, or by any process enforceable for the recovery of an arrear of any municipal tax or local rate imposed under any enactment for the time being in force in any part of the territories administered by the Local Government to which the Collector is subordinate.

(2) If any assessee is in receipt of any income chargeable under the head "Salaries," the Collector may require any person paying the same to deduct from any payment subsequent to the date of such requisition any sum recoverable under sub-section (1), and such person shall comply with any such requisition and shall pay the sums so deducted to the credit of the Government of India, or as the Governor General in Council directs.

¹ Words repealed by s. 6 of Act IV of 1919, *infra*, are omitted.

(3) The Local Government may direct by what authority any powers or duties incident under any such enactment as aforesaid to the enforcement of any process for the recovery of a municipal tax or local rate shall be exercised or performed when that process is employed under sub-section (1) for the recovery of income-tax.

(4) The Local Government may direct, with respect to any specified area, that income-tax shall be recovered therein, with, and as an addition to, any municipal tax or local rate by the same person and in the same manner as the municipal tax or local rate is recovered.

(5) Save in accordance with the provisions of section 33 (1), no proceedings for the recovery of any sum payable under this Act shall be commenced after the expiration of one year from the last day of the year in which any demand is made under this Act.

CHAPTER VI.

REFUNDS TO SHAREHOLDERS AND OTHERS.

37. If—

- (a) a shareholder in a company who has received any dividend from the company ; or
 - (b) a partner in a firm on which income-tax has been levied at the maximum rate, in accordance with the proviso to section 14, who has received a share of the profits of the firm ; or
 - (c) the owner of a security from the interest on which income-tax has been deducted in accordance with the provisions of section 15 ;
- satisfies the Collector that his total income in the previous year was less than any one, as the case may be, of the amounts specified in Schedule II, he shall be entitled to a refund of a sum calculated on such dividend, share of profits or interest at the rates specified in the same Schedule against each such amount.

Refund to individual shareholders, partners and owners of securities.

38. No claim to any refund under section 37 shall be allowed, unless it is made within one year from the last day of the year to which the claim relates.

Limitation of claims for refund.

CHAPTER VII.

OFFENCES AND PENALTIES.

39. If a person fails without reasonable cause or excuse—

- (a) to deduct and pay any tax as required by section 15 or under section 36 (2) ;
- (b) to deliver or cause to be delivered to the Collector in due time any of the returns mentioned in section 16, section 17, or section 28 ;

Failure to make payments or deliver returns or statements or allow inspection.

(c) to grant inspection or allow copies to be taken in accordance with the provisions of section 29,

(d) to attend or to produce, or cause to be produced, on or before the date mentioned in a notice under section 18, such accounts and documents as are referred to in the notice ;

he shall, on conviction before a Magistrate, be punishable with fine which may extend to ten rupees for every day during which the default continues.

False statement in declaration.

40. If a person makes a statement in a verification mentioned in section 17 or section 21 (3) which is false, and which he either knows or believes to be false or does not believe to be true, he shall be deemed to have committed the offence described in section 177 of the ¹Indian Penal Code.

Act XLV of 1860.

Prosecution to be at instance of Collector.

41. (1) A person shall not be proceeded against for an offence under section 39 or section 40, except at the instance of the Collector.

(2) The Collector may stay any such proceeding or compound any such offence.

Disclosure of information by public servant.

42. All particulars contained in any statement or return made or furnished under the provisions of this Act shall be treated as confidential, and if a public servant discloses any particulars contained in any statement or return made or furnished under this Act, he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine :

Provided that no prosecution shall be instituted under this section, except with the previous sanction of the Local Government.

CHAPTER VIII.

MISCELLANEOUS.

Power to make rules.

43. (1) The Governor General in Council may make rules² for carrying out the purposes of this Act and for the ascertainment and determination of any class of income, and may, subject to such restrictions and conditions as he may impose, delegate³ to a Local Government the power to make such rules so far as regards the territories subject to that Government.

(2) Without prejudice to the generality of the foregoing power, such rules may—

(a) when income is derived in part from agriculture and in part from business, prescribe the manner, whether with reference to a class or in particular cases, by which the taxable income shall be arrived at ;

¹ Genl. Acts, Vol. I.

² For notifications publishing rules made under s. 43, see List of Gen. R. and O.

³ For delegation of rule-making powers to Local Governments, see *ibid.*

- (b) prescribe the manner in which, and the procedure by which, the taxable income of insurance companies shall be arrived at ;
- (c) prescribe the manner in which, and the procedure by which, the taxable income of persons not resident in British India, or of persons deemed to be assesseees in respect thereof, shall be arrived at ;
- (d) provide for a system of composition of assessments and prescribe the conditions under which the Collector may enter into composition with assesseees as to their assessment ;
- (e) prescribe the procedure to be followed on applications for refunds ;
- (f) provide for any matter which by this Act is to be prescribed.

(3) Rules made under this section shall be published in the Gazette of India or the local official gazette, as the case may be, and shall thereupon have effect as if enacted in this Act.

44. The Governor General in Council may, by notification in the Gazette of India, make an exemption, reduction in rate or other modification, in respect of income-tax in favour of any class of income, or in regard to the whole or any part of the income of any class of persons. ^{Power to make exemptions, etc.}

45. When any money is paid under this Act to the Collector, or is recovered thereunder by him, he shall give a receipt for the same, specifying the prescribed particulars. ^{Receipts and their contents.}

46. A notice or requisition under this Act may be served on the person therein named, either by post, or by the delivery or tender to him of a copy of the notice or requisition in the manner provided by the ^{Service of notices.} Code of Civil Procedure, 1908, for the service of summons. ^{Act V of 1908.}

47. (1) When an assessee has several places of business in territories subject to different Local Governments, the Governor General in Council may declare which of those places shall, for the purposes of this Act, be deemed to be his principal place of business. ^{Power to declare principal places of business.}

(2) When an assessee has several places of business in the territories subject to a single Local Government, that Government may declare which of them shall, for the purposes of this Act, be deemed to be his principal place of business.

(3) The powers given by this section may be delegated to, and exercised by, such officers as the Governor General in Council or the Local Government, as the case may be, may appoint in this behalf.

¹ For notifications making exemptions in favour of certain classes of persons and certain classes of incomes under s. 44, see List of Gen. R. and O.

² Genl. Acts, Vol. VI.

- Indemnity.** 48. Every person deducting, retaining or paying any tax in pursuance of this Act in respect of income belonging to another person is hereby indemnified for the deduction, retention or payment thereof
- Powers exercisable from time to time.** 49. All powers conferred by, or conferrable under, this Act may be exercised from time to time as occasion requires.
- Delegation of certain powers of Local Government.** 50. The Local Government may, by notification in the local official gazette, delegate to the Chief Revenue-authority all or any of the powers conferred on it by this Act for the appointment of officers to exercise or perform the powers or duties of Collectors or Commissioners, and all or any of the powers conferred on it by section 36 and the proviso to section 42.
- Statement of case by Chief Revenue-authority to High Court.** 51. (1) If, in the course of any assessment under this Act or any proceeding in connection therewith other than a proceeding under Chapter VII a question has arisen with reference to the interpretation of any of the provisions of this Act or of any rule thereunder, the Chief Revenue-authority may either on its own motion or on reference from any Revenue-officer subordinate to it, draw up a statement of the case, and refer it, with its own opinion thereon, to the High Court, and shall so refer any such question on the application of the assessee, unless it is satisfied that the application is frivolous or that a reference is unnecessary.
- (2) If the High Court is not satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Revenue-authority by which it was stated, to make such additions thereto, or alterations therein, as the Court may direct in that behalf.
- (3) The High Court upon the hearing of any such case shall decide the questions raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send to the Revenue-authority by which the case was stated a copy of such judgment under the seal of the Court and the signature of the Registrar; and the Revenue-authority shall dispose of the case accordingly, or, if the case arose on reference from any Revenue-officer subordinate to it, shall forward a copy of such judgment to such officer who shall dispose of the case conformably to such judgment.
- (4) Where a reference is made to the High Court on the application of any assessee, costs shall be in the discretion of the Court.
- Bar of suits in Civil Court.** 52. No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act, and no prosecution, suit or other proceeding shall lie against any Government officer for anything in good faith done or intended to be done under this Act.

53. The enactments mentioned in Schedule III are hereby repealed to the Repeal. extent specified in the fourth column thereof :

Provided that such repeal shall not affect the liability of any person to pay any sum due from him or any existing right of refund under any of the said enactments :

VIII of 1917. Provided, further, that such repeal shall not affect the ¹Super-tax Act, 1917, and any provisions of the said enactments which have been applied or incorporated by reference in the said Act shall, for the purposes of that Act, continue to be in force.

SCHEDULE I.²

RATES OF TAX.

(See section 14.)

| | Rate. |
|---|-------------------------|
| I. When the taxable income is less than Rs. 2,000 | <i>Nil</i> . |
| II. When the taxable income is Rs. 2,000 or upwards and— | |
| (i) the total income is less than Rs. 5,000. | Five pies in the rupee. |
| (ii) the total income is Rs. 5,000 or upwards, but is less than Rs. 10,000. | Six pies in the rupee. |
| (iii) the total income is Rs. 10,000 or upwards, but is less than Rs. 25,000. | Nine pies in the rupee. |
| (iv) the total income is Rs. 25,000 or upwards. | One anna in the rupee. |

SCHEDULE II.³

RATES OF REFUND.

(See section 37.)

| Amount. | Refund. |
|--|--------------------------|
| 1. Less than Rs. 2,000 | One anna in the rupee. |
| 2. Rs. 2,000 or upwards, but less than Rs. 5,000 . | Seven pies in the rupee. |
| 3. Rs. 5,000 or upwards, but less than Rs. 10,000 , | Six pies in the rupee. |
| 4. Rs. 10,000 or upwards, but less than Rs. 25,000 . | Three pies in the rupee. |

¹ *Supra*.

² This Schedule was substituted for the original Sch. I by s. 4 of Act. IV of 1919, *infra*.

³ This Schedule was substituted for the original Sch. II by s. 5 of *ibid*.

SCHEDULE III.

ENACTMENTS REPEALED.

(See section 53)

| 1 | 2 | 3 | 4 |
|-------|-----|--|--|
| Year. | No. | Short title. | Extent of repeal. |
| 1886 | II | The Indian Income-tax Act, 1886. | So much as has not been repealed. |
| 1897 | XIV | The Indian Short Titles Act, 1897. | So much of the Schedule as relates to the Indian Income-tax Act, 1886. |
| 1903 | XI | The Indian Income-tax (Amendment) Act, 1903. | So much as has not been repealed. |
| 1914 | IV | The Decentralization Act, 1914. | So much of the Schedule as relates to the Indian Income-tax Act, 1886. |
| 1916 | V | The Indian Income-tax (Amendment) Act, 1916. | The whole. |
| 1917 | VII | The Indian Income-tax (Amendment) Act, 1917. | The whole. |

ACT No. VIII OF 1918¹.

[19th March, 1918.]

An Act to amend the Indian Defence Force Act, 1917.

WHEREAS it is expedient to amend the ² Indian Defence Force Act, 1917; III of 1917.

It is hereby enacted as follows :—

Short title. 1. This Act may be called the Indian Defence Force (Amendment) Act, 1918.

Amendment of section 12, Act III of 1917. 2. In section 12 of the ² Indian Defence Force Act, 1917, the following III of 1917. amendments shall be made, namely :—

(1) for sub-section (1) of that section, the following sub-sections shall be substituted, namely :—

[vide, page 210 *supra*.]

(2) The existing sub-sections (2) and (3) shall be re-numbered (3) and (4).

¹ For Proceedings in Council see Gazette of India, 1918, Pt. VI, p. 619.

² *Supra*.

ACT No. IX OF 1918.¹

[21st March, 1918.]

An Act to consolidate and amend the law to provide for the special protection in respect of civil and revenue litigation of Indian soldiers serving under war conditions.

WHEREAS it is expedient to consolidate and amend the law to provide for the special protection in respect of civil and revenue litigation of Indian soldiers serving under war conditions; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Soldiers (Litigation) Act, 1918. Short title and extent.
 (2) It extends to the whole of British India, including British Baluchistan.

2. In this Act,—

Definitions.

“Court” means a Civil or Revenue Court;

VIII of 1911.

“Indian soldier” means any person subject to the ²Indian Army Act, 1911;

“prescribed” means prescribed by rules made under this Act; and

“proceeding” includes suit and appeal.

3. An Indian soldier shall be deemed to be serving under war conditions—

(a) during the continuance of the ²present war and for six months thereafter,—

Circumstances in which Indian soldier shall be deemed to be serving under war conditions.

- (i) when he is serving out of India,
- (ii) when he is under orders to proceed on field service,
- (iii) when the unit to which he belongs is mobilised, or
- (iv) when, in the opinion of the prescribed authority, such soldier by reason of the state of war now existing is precluded from obtaining leave of absence to enable him to attend a Court as a party to any proceeding, and

(b) after the expiration of that period, when he is serving in any province and such service has been declared, by notification of the Governor General in Council in the Gazette of India, to be service under war conditions.

4. If any person presenting any plaint, application or appeal to any Court has reason to believe that any adverse party is an Indian soldier who is serving under war conditions, he shall state the fact in his plaint, application or appeal. Particulars to be furnished in plaints, applications or appeals to Court.

* ¹ For Statement of Objects and Reasons, see Gazette of India, 1918, Pt. V, p. 41, and for Proceedings in Council, see *ibid*, 1918, Pt. VI, pp. 451 and 665.

² Genl. Acts, Vol. VII

³ As to date of termination of the war, see Act V of 1919, *infra*.

Power of
Collector to
intervene in
case of
unrepresent-
ed Indian
soldier.
Notice to be
given in case
of unrepresent-
ed
Indian
soldier.

5. If the Collector has reason to believe that any Indian soldier, who ordinarily resides, or who has property in his district and who is a party to any proceeding pending before any Court, is unable to appear thereon, the Collector may certify the facts in the prescribed manner to the Court.

Postpone-
ment of
proceedings.

6. If the Collector has certified under section 5, or if the Court has reason to believe, that an Indian soldier, who is a party to any proceeding pending before it, is unable to appear thereon, and if such soldier is not represented by any person duly authorised to appear, plead or act on his behalf, such Court shall suspend the proceeding, and shall give notice thereof in the prescribed manner to the prescribed authority.

7. If, on receipt of a notice under section 6, the prescribed authority certifies in the prescribed manner to the Court in which the proceeding is pending that such soldier is serving under war conditions, and that a postponement of the proceeding as against such soldier is necessary in the interests of justice, such Court shall thereupon postpone the proceeding as against such soldier for the prescribed period, or, if no period has been prescribed, for such period as it thinks fit.

Court may
proceed when
no certificate
received
within cer-
tain period.

8. If, after issue of a notice under section 6, the prescribed authority either certifies that such soldier is not serving under war conditions, or that such postponement is not necessary, or fails to certify, in the case of a soldier resident in the district in which the Court is situate, within two months or, in any other case, within three months from the date of the issue of such notice that such postponement is necessary, the Court may, if it thinks fit, continue the proceeding.

Postpone-
ment of
proceedings
against
Indian
soldier on
leave.

9. When any document is produced before any Court by or on behalf of an Indian soldier who is a party to any proceeding in such Court purporting to be signed by his Commanding Officer and to the effect that such soldier—

(a) is on leave of absence for a period not exceeding two months, and is on the expiration of his leave to proceed on service out of India, or

(b) is on sick leave for a period not exceeding three months, and is on the expiration of his leave to rejoin his unit with a view to proceeding on service out of India,

the Court shall postpone the proceeding as against such soldier in the manner provided in section 7.

Power to set
aside decrees
and orders
passed
against an
Indian
soldier serv-
ing under
war condi-
tions.

10. (1) In any proceeding before a Court in which a decree or order has been passed against any Indian soldier whilst such soldier was serving under war conditions, such soldier may apply to the Court which passed the same for an order to set it aside, and, if he satisfies the Court that default after the 5th of May, 1915, has been made in complying with the provisions of section

4 or 6, the Court shall, or in any other case if the interests of justice require such a course, the Court, subject to such conditions (if any) as it thinks fit to impose, may make an order setting aside the decree or order as against such soldier :

Provided that—

- (a) any such application shall be made within three months from the date on which such soldier ceased to serve under war conditions ;
- (b) no decree or order shall be set aside on any such application, unless notice thereof has been served on the opposite party ; and
- (c) when the decree or order is of such a nature that it cannot be set aside as against such soldier only, it may be set aside as against all or any of the parties against whom it has been made.

IX of 1908. (2) The provisions of section 5 of the ¹Indian Limitation Act, 1908, shall apply to applications under this section.

IX of 1908. 11. In computing the period of limitation prescribed by the ¹Indian Limitation Act, 1908, or any other law for the time being in force for any suit, appeal or application to any Court in which the plaintiff, appellant or applicant is an Indian soldier, the time during which such soldier has been serving under war conditions, since the 4th of August, 1914, shall be excluded.

Modification of law of limitation in the case of Indian soldier serving under war conditions.

12. If any Court is in doubt whether, for the purposes of sections 10 or 11, any Indian soldier is or was at any particular time serving under war conditions, it may refer the point for the decision of the prescribed authority, and the certificate of such authority shall be conclusive evidence on the point.

Power of Court to refer question as to whether service was under war conditions or not.

13. The Local Government, after consulting the High Court, may, by notification in the local official gazette, make rules—

Rule-making power.

- (a) prescribing the manner and form in which any notice or certificate under this Act shall be given, and the authorities to whom such notices shall be given, and by whom the powers under this Act shall be exercised ;
- (b) the period for which proceedings or any class of proceeding shall be suspended under this Act ; and
- (c) generally providing for any matters incidental to the purposes of this Act.

Power to
apply the
provisions
of this Act
to other
persons in
the service
of the Crown.
Repeal of
Act XII of
1915.

14. The Governor General in Council may, by notification¹ in the Gazette of India, direct that all or any of the provisions of this Act shall apply to any other class of persons in the service of His Majesty specified in such notification in the same manner as they apply to Indian soldiers, and upon such notification such provisions shall apply accordingly.

15. The Indian Soldiers (*Litigation*) Act, 1915, is hereby repealed.

XII of 1915

ACT No. X OF 1918.²

[22nd March, 1918.]

An Act to give additional powers to Courts to deal in certain cases with usurious loans of money or in kind.

WHEREAS it is expedient to give additional powers to Courts to deal in certain cases with usurious loans of money or in kind ; It is hereby enacted as follows .—

1 (1) This Act may be called the Usurious Loans Act, 1918.

Short title
and extent.

(2) It extends to the whole of British India, including British Baluchistan.

(3) The Local Government may, by notification³ in the local official gazette, direct that it shall not apply to any area, class of persons, or class of transactions which it may specify in its notification.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions

(1) "Interest " means rate of interest and includes the return to be made over and above what was actually lent, whether the same is charged or sought to be recovered specifically by way of interest or otherwise.

(2) "Loan " means a loan whether of money or in kind and includes any transaction which is, in the opinion of the Court, in substance a loan.

(3) "Suit to which this Act applies " means any suit—

(a) for the recovery of a loan made after the commencement of this Act ; or

(b) for the enforcement of any security taken or any agreement whether by way of settlement of account or otherwise, made after the commencement of this Act, in respect of any loan made either before or after the commencement of this Act.

¹ For notification under s 14 applying the Act to the Indian personnel of the Inland Water Transport, see Leg. and O. W.

² For Statement of Objects and Reasons, see Gazette of India, 1917, Pt. V, p. 86 ; for Report of Select Committee, see *ibid*, 1918, Pt. V, p. 47 ; and for Proceedings in Council, see *ibid*, 1917, Pt. VI, pp 714, 815 and *ibid*, 1918, Pt VI, pp. 94 and 707

³ For notification exempting all awards made by the Registrar of Co-operative Societies, Assam, or by arbitrators, see Assam Gazette, 1918, Pt. II, p. 966. For notification exempting transactions by way of borrowing or lending by Co-operative Societies in Madras, see Fort St. George Gazette, 1918, Pt. I, p. 112j.

XXVIII of
1855.

3. (1) Notwithstanding anything in the ¹Usury Laws Repeal Act, Re-opening 1855, where, in any suit to which this Act applies, whether heard *ex parte* of trans- actions, or otherwise, the Court has reason to believe,—

- (a) that the interest is excessive ; and
- (b) that the transaction was, as between the parties thereto, substantially unfair,

the Court may exercise all or any of the following powers, namely, may,—

- (i) re-open the transaction, take an account between the parties, and relieve the debtor of all liability in respect of any excessive interest,
- (ii) notwithstanding any agreement, purporting to close previous dealings and to create a new obligation, re-open any account already taken between them and relieve the debtor of all liability in respect of any excessive interest, and if anything has been paid or allowed in account in respect of such liability, order the creditor to repay any sum which it considers to be repayable in respect thereof ;
- (iii) set aside either wholly or in part or revise or alter any security given or agreement made in respect of any loan, and if the creditor has parted with the security, order him to indemnify the debtor in such manner and to such extent as it may deem just :

Provided that, in the exercise of these powers, the Court shall not—

- (i) re-open any agreement purporting to close previous dealings and to create a new obligation which has been entered into by the parties or any persons from whom they claim at a date more than six years from the date of the transaction ;
- (ii) do anything which affects any decree of a Court.

Explanation.—In the case of a suit brought on a series of transactions the expression “ the transaction ” means, for the purposes of proviso (i), the first of such transactions.

- (2) (a) In this section “ excessive ” means in excess of that which the Court deems to be reasonable having regard to the risk incurred as it appeared, or must be taken to have appeared, to the creditor at the date of the loan.

- (b) In considering whether interest is excessive under this section, the Court shall take into account any amounts charged or paid, whether in money or in kind, for expenses, inquiries, fines, bonuses, premia, renewals or any other charges, and if compound interest is charged, the periods at which it is calculated and the total advantage which may reasonably be taken to have been expected from the transaction.
- (c) In considering the question of risk, the Court shall take into account the presence or absence of security and the value thereof, the financial condition of the debtor and the result of any previous transactions of the debtor, by way of loan, so far as the same were known, or must be taken to have been known, to the creditor.
- (d) In considering whether a transaction was substantially unfair, the Court shall take into account all circumstances materially affecting the relations of the parties at the time of the loan or tending to show that the transaction was unfair, including the necessities or supposed necessities of the debtor at the time of the loan so far as the same were known, or must be taken to have been known, to the creditor.

Explanation.—Interest may of itself be sufficient evidence that the transaction was substantially unfair.

(3) This section shall apply to any suit, whatever its form may be, if such suit is substantially one for the recovery of a loan or for the enforcement of any agreement or security in respect of a loan.

(4) Nothing in this section shall affect the rights of any transferee for value who satisfies the Court that the transfer to him was *bona fide*, and that he had at the time of such transfer no notice of any fact which would have entitled the debtor as against the lender to relief under this section.

For the purposes of this sub-section, the word "notice" shall have the same meaning as is ascribed to it in section 4 of the ¹Transfer of Property Act, IV of 1882. 1882.

(5) Nothing in this section shall be construed as derogating from the existing powers or jurisdiction of any Court.

4. On any application relating to the admission or amount of a proof of a loan in any insolvency proceedings, the Court may exercise the like powers as may be exercised under section 3 by a Court in a suit to which this Act applies.

Insolvency
proceedings.

¹ Genl. Acts, Vol. III.

ACT No. XI OF 1918.¹

[22nd March, 1918.]

An Act further to amend the Indian Army Act, 1911.

VIII of
1911.

WHEREAS it is expedient further to amend the ³Indian Army Act, 1911 ;
It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Army (Amendment) Act, 1918. Short title and com-
mencement.

(2) It shall come into force on such ³date as the Governor General in Council may, by notification in the Gazette of India, direct in this behalf.

VIII of
1911.

2. In the Indian Army Act, 1911 (hereinafter referred to as the said Act), for the expressions " native " and " a native " wherever they occur, the expressions " Indian " and " an Indian " shall be substituted, respectively. Substitution of " Indian " for " native " in Act VIII of 1911.

3. For sub-section (1) of section 6 of the said Act, the following sub-section shall be substituted, namely :— Amendment of section 6 of Act VIII of 1911.

"6. (1) Whenever persons subject to this Act are serving—

(a) out of India under an officer not subject to the authority of the Governor General in Council, or Officers to exercise powers in certain cases.

(b) in India under an officer commanding any military organization not in this section specifically named, and being, in the opinion of the Governor General in Council, not less than a brigade, the Governor General in Council may prescribe the officer by whom the powers which, under this Act, may be exercised by officers commanding armies, army corps, divisions and brigades, shall, as regards such persons, be exercised."

4. For clause (8) of section 7 of the said Act, the following clause shall be substituted, namely :— Amendment of section 7 of Act VIII of 1911.

"(8) ' army,' ' army corps,' ' division ' and ' brigade ' mean respectively an army, army corps, division or brigade which is under the command of an officer subject to the authority of the Governor General in Council or, when on active service, an army, army corps, division or brigade under the command of an officer holding a commission in His Majesty's Land Forces."

5. In section 9 of the said Act, after the words " he shall sign," the words " and shall also cause the person to sign," shall be inserted. Amendment of section 9 of Act VIII of 1911.

¹ For Statement of Objects and Reasons, see Gazette of India, 1918, Pt V, p. 19 ; for Report of Select Committee, see *ibid*, 1918, Pt. V, p. 43 ; and for Proceedings in Council, see *ibid*, 1918, Pt. VI, p.p. 283 and 711.

² Genl. Acts, Vol. VII.

³ The 1st August, 1918, see Gazette of India, 1918, Pt. I, p. 835.

Amendments
of sections
14, 19, 21, 23,
102 and 108
of Act VIII
of 1911.

6. In sections 14, 19, 21, 23 and 108 of the said Act, after the word "army", the words "army corps", and in section 102 of the said Act after the word "army", the words "or army corps" shall be inserted.

Amendment
of section 18
of Act VIII
of 1911.

7. To sub-section (2) of section 18 of the said Act, the following proviso shall be added, namely :—

"Provided that, where any such person is sentenced to dismissal combined with any other punishment, such other punishment or, in the case of a sentence of transportation or imprisonment, a portion of such other punishment, may be inflicted before he is sent to India"

Amendment
of section 25
of Act VIII
of 1911.

8. After clause (j) of section 25 of the said Act, the following shall be added, namely :—

"or

(k) on active service commits any offence against the property or person of any inhabitant of, or resident in, the country in which he is serving."

Amendment
of section 27
of Act VIII
of 1911.

9. In clause (a) of section 27 of the said Act, after the word "causes," the words "or conspires with any other persons to cause" shall be inserted.

Insertion of
new section
39A in Act
VIII of 1911.

10. After section 39 of the said Act, the following section shall be inserted, namely :—

Attempts.

"39A. Whoever attempts to commit an offence punishable by this Act or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, may, where no express provision is made by this Act for the punishment of such attempt, be punished with the punishment provided in this Act for such offence."

Amendment
of section 43
of Act VIII
of 1911.

11. In section 43 of the said Act—

(1) in clause (c) for the words and brackets "(with or without solitary confinement)", the words "either rigorous or simple" shall be substituted;

(2) in clause (e) for the words "any stated period," the words "a period not exceeding two months" shall be substituted;

(3) after clause (g) the following clause shall be inserted, namely :—

"(gg) in the case of officers, reprimand or severe reprimand";

(4) in clause (h) after sub-clause (w), the following sub-clause shall be added, namely :—

"(v) on active service forfeiture of pay and allowances for a period not exceeding three months."

Amendment
of section 47
of Act VIII
of 1911.

12. In section 47 of the said Act, after the brackets and letter "(f)," the brackets and letters "(gg)" shall be inserted.

13. In Chapter VI after section 49 of the said Act, the following section shall be added, namely :—

Insertion of
new section
49A in Act
VIII of 1911.

“ 49A. When any person on active service has been sentenced by court-martial to dismissal or to transportation or imprisonment, whether combined with dismissal or not, the prescribed officer may direct that such person may be retained to serve in the ranks, and where such person has been sentenced to transportation or imprisonment, such service shall be reckoned as part of his term of transportation or imprisonment ”

Retention in
the ranks of
a person con-
victed on act-
ive service.

14. In section 50 of the said Act, after clause (c), the following clause shall be inserted, namely :—

Amendment
of section 50
of Act VIII
of 1911.

“(c) for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by his own misconduct or imprudence, such sum as may be specified by order of the Commander-in-Chief in India ;”

15. In the proviso to section 74 of the said Act, after the words “ district court-martial,” the words “ or on active service a summary general court-martial ” shall be inserted.

Amendment
of section 74
of Act VIII
of 1911

16. After sub-section (5) of section 86 of the said Act, the following sub-section shall be added, namely—

Amendment
of section 86
of Act VIII
of 1911.

“(6) A person charged before a court-martial with any offence under this Act may be found guilty of having attempted to commit or of abetment of that offence although the attempt or abetment is not separately charged.”

17. In section 91 of the said Act, for the words “ and of the enrolment of such person,” the following words shall be substituted, namely :—

Amendment
of section 91
of Act VIII
of 1911

“ The enrolment of such person may be proved by the production of a copy of his enrolment paper purporting to be certified to be a true copy by the officer having the custody of the enrolment paper.”

18. After section 91 of the said Act, the following section shall be inserted, namely :—

Insertion of
new section
91A in Act
VIII of
1911.

“ 91A. (1) A letter, return or other document respecting the service of any person in, or the dismissal or discharge of any person from, any portion of His Majesty's Forces, or respecting the circumstance of any person not having served in, or belonged to, any portion of His Majesty's Forces, if purporting to be signed by or on behalf of the Governor General in Council or the Commander-in-Chief in India or by any prescribed officer, shall be evidence of the facts stated in such letter, return or other document.

Presumption
as to certain
documents.

(2) An Army List or Gazette purporting to be published by authority shall be evidence of the status and rank of the officers or warrant officers therein mentioned, and of any appointment held by such officers or warrant officers and of the corps, battalion or arm or branch of the service to which such officers or warrant officers belong

(3) Where a record is made in any regimental book, in pursuance of this Act or of any rules made thereunder or otherwise in pursuance of military duty, and purports to be signed by the commanding officer or by the officer whose duty it is to make such record, such record shall be evidence of the facts thereby stated.

(4) A copy of any record in any regimental book purporting to be certified to be a true copy by the officer having the custody of such book shall be evidence of such record.

(5) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of, or has been apprehended by, a provost-marshal, assistant provost-marshal or other officer, or any portion of His Majesty's Forces, a certificate purporting to be signed by such provost-marshal, assistant provost-marshal or other officer, or by the commanding officer of that portion of His Majesty's Forces and stating the fact, date and place of such surrender or apprehension, shall be evidence of the matters so stated.

(6) When any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of, or has been apprehended by, a police officer not below the rank of an officer in charge of a police-station, a certificate purporting to be signed by such police-officer and stating the fact, date and place of such surrender or apprehension, shall be evidence of the matters so stated."

Amendment
of section 98
of Act VIII
of 1911.

19. In sub-section (1) of section 98 of the said Act,—

(1) after the words "convening officer," the words "or if the convening officer so directs, by an authority superior to the convening officer" shall be inserted ;

(2) in clause (2) for the word "said," the word "convening" shall be substituted.

Insertion of
new section
99A in Act
VIII of
1911.

20. After section 99 of the said Act, the following section shall be inserted, namely :—

Confirmation
of finding
and sentence
on board
ship.

"99A. When any person subject to this Act is tried and sentenced by court-martial while on board ship, the finding and sentence so far as not confirmed and executed on board ship may be confirmed and executed in like manner as if such person had been tried at the port of disembarkation."

21. After the proviso to section 107 of the said Act, the following proviso shall be added, namely :—

“ Provided further that on active service a sentence of rigorous imprisonment may be carried out by confinement in such place as the officer commanding the forces in the field may, from time to time, appoint. ”

Amendment of section 107 of Act VIII of 1911.

22. After section 108 of the said Act, the following section shall be inserted, namely :—

Insertion of new section 108A in Act VIII of 1911.

“ 108A. In every case in which a sentence of transportation is passed under this Act, the offender, until he is transported, shall be dealt with in the same manner as if sentenced to rigorous imprisonment, and shall be deemed to have been undergoing his sentence of transportation during the term of his imprisonment.”

Offenders sentenced to transportation how dealt with until transported.

23. In Chapter IX of the said Act after section 111, the following section shall be added, namely :—

Insertion of new section 111A in Act VIII of 1911.

“ 111A. When a sentence of fine is imposed by a court-martial under section 41 or section 42, whether the trial was held within British India or not, a copy of such sentence, signed and certified by the president of the court or the officer holding the trial, as the case may be, may be sent to any Magistrate in British India, and such Magistrate shall thereupon cause the fine to be recovered in accordance with the provisions of the ¹Code of Criminal Procedure, 1898, for the levy of fines as if it was a sentence of fine imposed by such Magistrate. ”

Execution of sentence of fine.

Act V of 1898.

24. For section 112 of the said Act, the following section shall be substituted, namely :—

Substitution of new section for section 112 of Act VIII of 1911: Pardons and remissions.

“ 112. (1) When any person subject to this Act has been convicted by a court-martial of any offence, the Governor General in Council or the Commander-in-Chief in India or, in the case of a sentence which he could have confirmed or which did not require confirmation, the officer commanding the army, army corps, division or independent brigade in which such person at the time of his conviction was serving, or the prescribed officer may,

(a) either without conditions or upon any conditions which the person sentenced accepts, pardon the person or remit the whole or any part of the punishment awarded ;

(b) mitigate the punishment awarded, or commute such punishment for any less punishment or punishments mentioned in this Act :

¹ Genl. Acts, Vol. V.

Provided that a sentence of transportation shall not be commuted for a sentence of imprisonment for a term exceeding the term of transportation awarded by the court.

(2) If any condition on which a person has been pardoned or a punishment has been remitted is, in the opinion of the authority which granted the pardon or remitted the punishment, not fulfilled, such authority may cancel the pardon or remission, and thereupon the sentence of the court shall be carried into effect as if such pardon had not been granted or such punishment had not been remitted :

Provided that, in the case of a person sentenced to transportation or imprisonment, such person shall undergo only the unexpired portion of his sentence.

(3) When under the provisions of section 49 a non-commissioned officer is deemed to be reduced to the ranks, such reduction shall, for the purposes of this section, be treated as a punishment awarded by sentence of a court-martial."

Insertion of
new sections
126A and
126B in Act
VIII of 1911.

25. After section 146 of the said Act, the following sections shall be inserted, namely :—

Disposal of Property.

Order for
custody and
disposal of
property
pending trial
in certain
cases.

126A. When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before a court-martial during a trial, the court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the trial, and if the property is subject to speedy or natural decay, may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Order for
disposal of
property
regarding
which offence
committed.

126B. (1) After the conclusion of a trial before any court-martial, the court or the officer confirming the finding or sentence of such court-martial or any authority superior to such officer, or, in the case of a court-martial whose finding or sentence does not require confirmation, the officer commanding the army, army corps, division or brigade within which the trial was held, may make such order as it or he thinks fit for the disposal by destruction, confiscation, delivery to any person claiming to be entitled to possession thereof, or otherwise, of any property or document produced before the court or in its custody, or regarding which any offence appears to have been committed or which has been used for the commission of any offence.

(2) Where any order has been made under sub-section (1) in respect of property regarding which an offence appears to have been committed, a copy of such order signed and certified by the authority making the same may, whether the trial was held within British India or not, be sent to a Magis-

1918 : Act XI.]

Army.

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1918 : Act XII.]

Companies Restriction.

Act V of
1898.

trate in any presidency-town or district in which such property for the time being is, and such Magistrate shall thereupon cause the order to be carried into effect as if it was an order passed by such Magistrate under the provisions of the ¹Code of Criminal Procedure, 1898.

Explanation.—In this section the term ‘property’ includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange whether immediately or otherwise.”

26. The title and the sections of the said Act mentioned in the Schedule Repeals. are hereby repealed to the extent specified in the second column thereof.

THE SCHEDULE.

SECTIONS OF THE INDIAN ARMY ACT, 1911, TO BE REPEALED.

(See section 26.)

| | Extent of repeal. |
|-----------|---|
| The title | The word “ Native ” |
| Sec. 2 | The proviso to sub-section (I). |
| „ 10 | The words “ of which the last pay statement, if produced, shall be evidence.” |
| „ 15 | The whole. |
| „ 18 | Sub-section (3). |
| „ 43 | In sub-clause (iii) of clause (k) the words “ or whose sentence involves such dismissal.” |
| „ 50 | In clause (c) the word “ proper ” and the words “ at the hospital,” and in the proviso the words “ or whose sentence involves dismissal.” |
| „ 93 | In sub-section (2) the words “ to prove the signature to such certified extracts nor shall it be necessary.” |
| „ 126 | Sub-section (3). |

ACT No. XII OF 1918.²

[22nd March, 1918.]

An Act to control the withdrawal of capital from the money-market by Companies.

WHEREAS it is expedient owing to the present war to take power to control the withdrawal of capital from the money-market by Companies ; It is hereby enacted as follows :—

Short title
and duration.

1. (1) This Act may be called the Indian Companies Restriction Act, 1918.

¹ Genl. Acts, Vol. V.

² For Statement of Objects and Reasons, see Gazette of India, 1918, Pt. V, p. 38 ; and for Proceedings in Council, see *ibid.*, 1918, Pt. VI, pp. 449 and 712.

(2) It shall remain in force during the continuance of the ¹present war, and for a period of six months thereafter.

Definitions. 2. All words and expressions used in this Act and defined in the ²Indian VII of 1913. Companies Act, 1913, shall be deemed to have the meanings respectively attributed to them by that Act.

Prohibition of the registration of, or the Registrar shall not register a company, nor shall a company increase its share capital, issue debentures, or call up unpaid capital, unless the company by companies except holds a license in this behalf issued by the Governor General in Council; under license. Provided that nothing in this sub-section shall apply to a private company.

(2) A license issued under sub-section (1) shall be subject to such conditions as the Governor General in Council may think fit, and the holder of such license shall comply with any such conditions.

Contracts made for the purpose of increasing share capital in contravention of section 3, to be void, and calls to be unenforceable. 4. Any contract made by or on behalf of a company, with the object or the effect of increasing its share capital, or for the issue of debentures, which is in contravention of the provisions of section 3, shall be void, and any call made by a company in contravention of the said provisions shall be unenforceable.

ACT No. XIII OF 1918.³

[12th September, 1918.]

An Act to provide that silver held on behalf of the Secretary of State for India in Council or the Governor General in Council may, if so held in the United States of America or in course of transmission therefrom, be deemed to be part of the reserve referred to in section 19 of the Indian Paper Currency Act, 1910.

WHEREAS it is expedient, owing to the present war, to provide that silver held on behalf of the Secretary of State for India in Council or the Governor General in Council may, if so held in the United States of America or in

¹ As to date of termination of the war, see Act V of 1919, *infra*.

² Genl. Acts, Vol. VII.

³ For Statement of Objects and Reasons, see Gazette of India, 1918, Pt. V, p. 55 and for Proceedings in Council, see *ibid*, 1918, Pt. VI, pp. 758 and 950.

II of 1910. course of transmission therefrom, be deemed to be part of the reserve referred to in section 19 of the Indian Paper Currency Act, 1910¹; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Paper Currency Act, 1918.

Short title
and duration.

(2) It shall remain in force during the continuance of the ²present war, and for a period of six months thereafter.

2. In this Act—

Definition.

“Silver” means silver coin or silver bullion.

II of 1910. 3. Notwithstanding anything contained in the Indian Paper Currency Act, 1910,¹ the Governor General in Council may, by order in writing, direct—

Power to direct that silver held in the United States of America or in transmission therefrom may be deemed to be part of the Paper Currency Reserve.

(a) that silver held in the United States of America on behalf of the Secretary of State for India in Council or the Governor General in Council, shall be deemed to be part of the reserve referred to in section 19 of the said Act ; or

(b) that silver in course of transmission from the United States of America, which is, at the commencement of such transmission or at any period thereafter, held on behalf of the Secretary of State for India in Council or the Governor General in Council for transmission to India shall, during the period it is so held, be deemed to be a part of the reserve referred to in section 19 of the said Act.

4. The Indian Paper Currency Ordinance, 1918, is hereby repealed.

Repeal of Ordinance I of 1918.

ACT No. XIV OF 1918.³

[12th September, 1918.]

An Act to provide for the coinage of a gold coin at the Mints referred to in the Indian Coinage Act, 1906.

III of 1906. WHEREAS it is expedient to provide for the coinage of a gold coin at the Mints referred to in the Indian Coinage Act, 1906⁴ ; It is hereby enacted as follows :—

1. (1) This Act may be called the Gold Coinage Act, 1918.

Short title
and duration.

(2) It shall remain in force during the continuance of the ²present war, and for a period of six months thereafter.

¹ Genl. Acts, Vol. VII.

² As to date of termination of the war, see Act V of 1919, *infra*.

³ For Statement of Objects and Reasons, see Gazette of India, 1918, Pt. V, p. 56 ; and for Proceedings in Council, see *ibid.*, 1918, Pt. VI, pp. 759 and 953.

⁴ Genl. Acts, Vol. VI.

- Interpretation.** 2. All words and expressions used in this Act and defined in the Indian Coinage Act, 1906,¹ shall be deemed to have the meanings respectively attributed to them by that Act. III of 1906.
- Gold coinage.** 3. The following gold coin shall be coined at the Mint for issue under the authority of the Governor General in Council, namely : a gold mohur or fifteen rupee piece.
- Standard weight and fineness.** 4. The standard weight of the said gold mohur shall be 128·27447 grains troy. Its standard fineness shall be as follows, namely : eleven-twelfths fine gold and one-twelfth of alloy :
 Provided that, in the making of the coin, a remedy shall be allowed not exceeding one-fifth of a grain in weight and two-thousandths in fineness.
- Power to direct coining and to prescribe dimensions and designs.** 5. The Governor General in Council may, by notification² in the Gazette of India, direct the coining and issuing of gold mohurs and determine the dimensions of, and designs for, such coins.
- Gold mohurs when legal tender.** 6. The gold mohur shall be a legal tender in payment or on account, at the rate of fifteen rupees for one gold mohur :
 Provided that the coin—
 (a) has not lost in weight so as to be of less weight than $122\frac{1}{2}$ grains, and
 (b) has not been defaced.
- Power to cut diminished or defaced gold mohurs.** 7. (1) Where any gold mohur which has been coined and issued under the authority of the Governor General in Council is tendered to any person authorised to act under section 16 of the Indian Coinage Act, 1906,¹ and III of 1906 such person has reason to believe that the coin—
 (a) has been diminished in weight so as to be of less weight than $122\frac{1}{2}$ grains, or
 (b) has been defaced,
 he shall, by himself or another, cut or break the coin.
 (2) A person cutting or breaking coin under the provisions of sub-section (1) shall return the pieces to the person tendering the coin who shall bear the loss caused by such cutting or breaking :
 Provided that, in the case of a defaced coin, if the person so cutting or breaking has reason to believe that the coin has not been fraudulently defaced within the meaning of section 18 of the Indian Coinage Act, 1906,¹ and the III of 1906, coin is not of less weight than $122\frac{1}{2}$ grains, he shall receive and pay for the coin at its nominal value.

¹ Genl. Acts, Vol. VI.

² For notification directing the issue of gold mohur, see Gazette of India (Extraordinary) of 14th June, 1918, p. 392.

1918 : Act XIV.]

Gold Coinage.

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1918 : Act XV.]

Enemy Trading Orders.

III of 1906. 8. The provisions of section 20 of the Indian Coinage Act, 1906,¹ shall apply in the case of gold mohurs as if that section referred to gold coin and gold bullion, and any person authorised under that section may exercise in respect of gold mohurs the powers conferred thereby. Power to cut counterfeit gold coin.

9. The Governor General in Council may make rules to carry out the purposes and objects of this Act. Rule-making power.

10. No suit or other proceeding shall lie against any person in respect of anything in good faith done, or intended to be done under, or in pursuance of the provisions of, this Act. Bar of suits.

11. The Gold Coinage Ordinance, 1918, is hereby repealed.

Repeal of Ordinance II of 1918.

ACT No. XV of 1918.²

[12th September, 1918.]

An Act to terminate doubts which have arisen as to the continuance in force of notifications, orders and rules made or issued under the Enemy Trading Ordinance, 1916.

V of 1916. WHEREAS doubts have arisen as to the continuance in force of notifications, orders and rules made or issued under the Enemy Trading Ordinance, 1916, after the repeal of the said Ordinance by the Enemy Trading Act, X of 1916. 1916,³ and it is expedient to terminate such doubts ; It is hereby enacted as follows :—

1. This Act may be called the Enemy Trading Orders (Validation) Act, Short title. 1918.

V of 1916. 2. Every notification, order or rule which was made or issued under any provision of the Enemy Trading Ordinance, 1916, and which was in force immediately prior to the repeal of the said Ordinance, shall be deemed to have continued in force notwithstanding such repeal, and to have been made X of 1916. or issued under the Enemy Trading Act, 1916.³

Orders made under the Enemy Trading Ordinance to be deemed to be, and always to have been, in force.

¹ Genl. Acts, Vol. VI.

² For Statement of Objects and Reasons, see Gazette of India, 1918, Pt. V, p. 69 ; and for Proceedings in Council, see *ibid*, 1918, Pt. VI, pp. 792 and 953.

³ *Supra*.

ACT No. XVI OF 1918.¹

[20th September, 1918.]

An Act to provide for the immediate effect for a limited period of Bills introduced into the Indian Legislative Council which impose or vary certain taxation.

WHEREAS it is expedient to provide for the immediate effect for a limited period of Bills introduced into the Indian Legislative Council which impose or vary certain taxation ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Provisional Collection of Taxes Act, 1918.

Government
taxation
Bills to have
limited
statutory
effect.

2. When a Bill is introduced into the Indian Legislative Council by a Member of the Executive Council of the Governor General, and such Bill provides for the imposition or variation of any tax in the nature of customs or excise duties, and there is inserted therein a declaration that it is expedient in the public interest that the Bill should have temporary effect under the provisions of this Act, the Bill shall, for the period limited by this section and subject to the provisions of this Act, have effect from the date of its introduction as if it were an Act of the Governor General in Council :

Provided that the Bill shall cease to have such effect if it is rejected by the said Council, or is not passed into law within thirty days from the date of introduction :

Provided further that, if the Bill is passed into law by the said Council in a modified form, the Bill shall be deemed to have effect under this Act as so modified.

Repayment
of money
paid where
Bill ceases
to have
statutory
effect.

3. (1) Where under this Act a Bill to which this Act applies ceases to have effect thereunder, any money paid in pursuance of the Bill shall be repaid or made good, and any deduction made in pursuance of the Bill shall be deemed to be an unauthorised deduction.

(2) Where the tax as imposed by the Bill is modified by the Act passed by the Indian Legislative Council, any money which has been paid in pursuance of the Bill which would not have been payable under the new conditions affecting the tax shall be repaid or made good ; and any deduction made in pursuance of the Bill shall, so far as it would not have been authorised under the new conditions affecting the tax, be deemed to be an unauthorised deduction.

¹ For Statement of Objects and Reasons, see Gazette of India, 1918, Pt. V, p. 51 ; and for Proceedings in Council, see *ibid*, 1918, Pt. VI, pp. 757 and 993.

ACT No. XVII OF 1918.¹

[20th September, 1918.]

An Act to restrict temporarily the persons who may engage in business connected with certain non-ferrous metals and metallic ores.

WHEREAS it is expedient to restrict temporarily the persons who may engage in business connected with certain non-ferrous metals and metallic ores ; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Non-ferrous Metal Industry Act, 1918 ;

Short title,
extent, com-
mencement
and duration.

(2) It extends to the whole of British India, including British Baluchistan ;

(3) It shall come into force on the 1st day of October, 1918 ; and

(4) It shall be in force during the continuance of the present war, and for a period of five years thereafter.

2. (1) In this Act, unless there is anything repugnant in the subject or context,—

Defini-
tions.

(a) "Indian company" means a company as defined in section 2 of the Indian Companies Act, 1913.²

VII of 1913.

(b) "Licence" means a licence granted under this Act, and "licensed" and "licensee" have corresponding meanings.

(c) "Prescribed" means prescribed by rules made under this Act.

(d) The expression "share warrants to bearer" includes any bearer securities which confer on the holder thereof any voting power, with respect to the management of the company.

3. The metals and ores to which this Act applies are zinc, copper, tin, lead, nickel and aluminium and any other non-ferrous metals and ores to which this Act may be applied by the Governor General in Council by notification in the Gazette of India :

Metals and
ores to which
the Act
applies.

Provided that the expression "metal" shall not include metal which has been subjected to any manufacturing process, except such as may be prescribed ; and that the expression "ore" shall include concentrates, mattes, precipitates and other intermediate products.

4. (1) It shall not be lawful for any person, after the expiration of six months from the commencement of this Act or such longer period, as the Governor General in Council may generally or in any particular case allow,

Prohibition
against
dealing in
certain
metals
without a
licence.

¹ For Statement of Objects and Reasons, see Gazette of India, 1918, Pt. V, p. 54 ; and for Proceedings in Council, see *ibid.*, 1918, Pt. VI, pp. 760 and 999.

² As to date of termination of the war, see Act V of 1919, *infra*.

³ Genl. Acts, Vol. VII.

to carry on the business of winning, extracting, smelting, dressing, refining or dealing by way of wholesale trade in metal or metallic ore to which this Act applies, unless licensed to do so in accordance with the provisions of this Act :

Provided that the purchase or sale of metal shall not be deemed to be dealing in such metal where such purchase or sale is incidental only to the trade carried on by the purchaser or seller :

Provided further that no licence shall be required when the winning, extracting, smelting, dressing, refining, or dealing is carried on wholly outside India.

(2) In the case of a person with respect to whom any of the conditions set forth in the Schedule apply, or who is controlled by a person in respect of whom any such conditions apply, no licence shall be granted, unless the Governor General in Council is of opinion that the grant of a licence is expedient.

(3) Save as provided in sub-section (2) any person carrying on or proposing to carry on a business to which sub-section (1) applies shall, on making application to the Local Government in the prescribed manner, and on furnishing such information and allowing inspection of such books and documents as the Local Government require, and on payment of the prescribed fee, which shall not exceed rupees fifteen, be entitled to a licence.

(4) A licence shall remain in force unless and until it is suspended or revoked.

(5) The Governor General in Council may revoke or suspend any licence granted in accordance with sub-section (2) if he is satisfied that such a course is expedient, or any licence granted under sub-section (3) if he is satisfied, on grounds not before the Local Government at the time the licence was granted, that the licensee is or has become subject to any of the conditions set forth in the Schedule.

(6) The decision of the Governor General in Council shall be final on the following questions, namely :—

(a) whether or not the business carried on by any person is such as to require a licence or not ; or

(b) whether or not any of the conditions set forth in the Schedule apply in respect of any person ; or

(c) whether or not any person is controlled by a person in respect of whom any such conditions apply.

(7) The Local Government shall publish in the prescribed manner the name of any person to whom a licence has been granted, or whose licence has been suspended or revoked under this Act.

5. (1) The Governor General in Council or the Local Government may, by order in writing, require the applicant for a licence or a licensee, or any person who, being a director, partner, manager or officer of, or the holder of or a person interested in shares or securities of, any company, or firm, which has applied for the grant of a licence, or to which a licence has been granted under this Act, or by which the applicant or licensee is controlled, or being the manager of the business carried on by an individual applicant or licensee is able to give any information as to the constitution, control or management of the company or firm, or the business carried on by the company, firm, or individual, or the beneficial interest of any person in such business or in any shares or securities of the company or firm, to furnish such information within such time as may be specified in the order.

Power to require information and inspection of documents.

(2) Any person authorised by the Governor General in Council or the Local Government in this behalf may, for the purpose of verifying or obtaining information of the nature referred to in sub-section (1), inspect any books and documents belonging to or under the control of such company, firm or individual, the inspection of which may reasonably be required for the said purpose.

6. (1) An Indian company carrying on any business to which section 4(1) applies which has issued share warrants to bearer may give notice requiring the holders of such share warrants to surrender the same for cancellation, and to have their names entered in the register of members in respect of the shares included in such warrants.

Provisions as to share warrants to bearer.

(2) Such notice shall be given by advertisement in the Gazette of India and by any other method by which notices to or for the information of holders or share warrants to bearer are required to be given by the regulations of the company or the conditions of issue of such warrants.

(3) Where notice has been given under this section, no person shall, as holder of a share warrant, be entitled to attend or vote at any meeting of the company, and any dividends or interest which may become payable in respect of any shares, represented by share warrants shall be retained by the company until such share warrants have been surrendered for cancellation.

7. (1) An Indian company carrying on any business to which section 4(1) applies may give notice requiring a share-holder or debenture-holder to make a declaration in writing duly signed with his usual signature as to the beneficial ownership of the shares or debentures standing in his name and as to the nationality of such beneficial owner.

Provisions as to declarations by share-holders.

(2) Such notice shall be given by any method by which notice to or for the information of holders of shares or debentures are required to be given by the regulations of the company or the conditions of issue of the debentures.

(3) Where notice has been given under this section, no person shall, as holder of a share, be entitled to attend or vote at any meeting of the company, and any dividends or interest which may become payable in respect of any shares or debentures shall be retained by such company until the shareholder or debenture-holder shall have made such declaration as aforesaid.

(4) For the purposes of this section the expressions "shares" and "debentures" include stock and debenture stock, and "shareholder" and "debenture-holder" have corresponding meanings.

Information obtained under the Act not to be disclosed. Penalties.

8. No information as to any person or business obtained in accordance with the provisions of section 5 or section 7 shall be published or disclosed, except for the purposes of a prosecution under this Act.

9. (1) Any person who—

- (a) carries on the business of winning, extracting, smelting, dressing, refining or dealing in any metal or metallic ore in contravention of this Act; or
- (b) refuses or neglects to furnish any information, which by an order under section 5 is required to be furnished, within the time specified in such order or knowingly furnishes any such information which is false in any material particular; or
- (c) having the custody of any book or document which a person is authorised to inspect under section 5 refuses or neglects to produce the book or document for inspection; or
- (d) fraudulently uses or permits to be fraudulently used any licence issued under this Act; or
- (e) makes a declaration in compliance with a notice under section 7 which is false, and which he either knows or believes to be false or does not believe to be true; or

(f) in contravention of section 8 knowingly publishes or discloses any information obtained in accordance with the provisions of this Act, shall be punishable with imprisonment which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

(2) Where the person guilty of an offence under this Act is a company, every director, manager, secretary and other officer thereof who is knowingly a party to the default shall also be guilty of the like offence and liable to the like punishment.

Cognisance of offences against the Act.

10. No Court shall take cognisance of any offence punishable under this Act, unless the Local Government has by order in writing consented to the initiation of the proceedings.

Power to make rules.

11. (1) The Governor General in Council shall make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules shall provide for—

- (a) the levying of fees in respect of licences issued under this Act ;
- (b) excluding from dealings by way of wholesale trade within the meaning of this Act, dealings in quantities below such limits as may be specified generally or in respect of any particular metal or metallic ore ; and
- (c) any matter which under this Act may be prescribed.

SCHEDULE.

Interpretation.

In this Schedule—

“Capital” in relation to a company means any shares or securities issued by the company which carry or would, if necessary formalities were complied with, carry any voting power with respect to the management of the company, and shall also include debentures and debenture stock and money lent to the company ;

“hostile foreigner” means a subject of a State which is now at war with His Majesty ;

“association under hostile control” means any association—

- (a) where the majority of the directors, partners, managing agents or the persons occupying any of these positions by whatever name called are hostile foreigners ; or
- (b) where the majority of the voting power is in the hands of persons who are hostile foreigners or who exercise their voting powers directly or indirectly on behalf of persons who are hostile foreigners ; or
- (c) where the control is by any means whatever in the hands of persons who are hostile foreigners ; or
- (d) where the executive is an association falling within any of clauses (a), (b), or (c) of this definition, or where the majority of the executive are appointed by such an association.

Conditions.

1. That the person or the manager or principal officer employed by him, or where the person is a company or firm, that any director or partner or manager or other principal officer thereof is or has been a hostile foreigner, or an association under hostile control.

2. That, in the case of a company, any capital of the company is or was at any time after the 1st of October, 1918, held by or on behalf of a hostile foreigner, or an association under hostile control :

4 & 5 Geo. 5, c. 87, 5 Geo. 5, c. 12; 5 & 6 Geo. 5, c. 79, 5 & 6 Geo. 5, c. 98, 5 & 6 Geo. 5, c. 105, 6 & 7 Geo. 5, c. 32; 6 & 7 Geo. 5, c. 52. .

Provided that any stock or shares of the company vested in a custodian or other person by virtue of any order made under the Trading with the Enemy Acts, 1914 to 1916, or the Enemy Trading Act, 1915, or the Enemy Trading XIV of 1915. Act, 1916, or any like enactment in force in any part of His Majesty's dominions shall be deemed to be so held. X of 1916.

3. That the person is or was at any time after the 1st of October, 1918, party to any agreement, arrangement or understanding which enables or enabled a hostile foreigner or an association under hostile control to influence the policy or conduct of the business.

4. That the person is or was after the 1st of October, 1918, interested, directly or indirectly, to the extent of one-fifth or more of the capital, profits or voting power in any undertaking, whether or not in British India, engaged in any business to which section 4 (1) applies in which hostile foreigners or an association or associations under hostile control are also interested, directly or indirectly, to the extent of one-fifth or more of the capital, profits or voting power.

5. That the person is by any means whatever subject, directly or indirectly, in the conduct of his business to the influence of a hostile foreigner or an association under hostile control.

6. That in the case of a company, the company has issued share warrants to bearer and has not given notice requiring the holders of such share warrants to surrender the same for cancellation.

ACT No. XVIII of 1918.¹

[20th September, 1918.]

An Act to amend the Indian Army (Suspension of Sentences) Act, 1917.

WHEREAS it is expedient to amend the Indian Army (Suspension of Sentences) Act, 1917²; It is hereby enacted as follows :—

IV of 1917.

Short title.

1. This Act may be called the Indian Army (Suspension of Sentences) Amendment Act, 1918.

Amendment of section 2, Act IV of 1917.

2. In clause (5) of section 2 of the Indian Army (Suspension of Sentences) Act, 1917² (hereinafter referred to as the said Act), for the words "in which the offender, at the time of his conviction, was serving," the words "in which

¹ For Statement of Objects and Reasons, see Gazette of India, 1918, Pt. V, p. 72, and for Proceedings in Council, see *ibid.*, 1918, Pt. VI, pp. 954 and 999.

² *Supra.*

an offender is for the time being serving, or within the limits of whose command an offender who has been committed is for the time being undergoing his sentence" shall be substituted.

3. In section 3 of the said Act,—

(1) in sub-section (1) the words "or dismissed from the service (if liable to such dismissal)" shall be omitted;

(2) in sub-section (5) after the words "may be required," the words "by a superior military authority" shall be inserted;

(3) in sub-section (6) for the words "three," the word "four" shall be substituted;

(4) in sub-section (7), the words "and the prisoner, if liable to be dismissed from the service under section 15 of the principal Act, shall be forthwith dismissed from the service," shall be omitted;

(5) for sub-section (8) the following sub-section shall be substituted, namely :—

[*Vide p. 216, supra.*]

(6) in sub-section (9) for the figures "99," the figures "112" shall be substituted;

(7) after sub-section (9) the following sub-sections shall be added, namely :—

[*Vide p. 216, supra.*]

ACT No. XIX of 1918.¹

[20th September, 1918.]

An Act further to amend the Indian Defence Force Act, 1917.

WHEREAS it is expedient further to amend the Indian Defence Force Act, 1917; It is hereby enacted as follows :—

1. This Act may be called the Indian Defence Force (Further Amendment) Act, 1918.

2. After section 11 of the Indian Defence Force Act, 1917,² the following section shall be inserted, namely :—

[*Vide p. 210, supra.*]

¹ For Statement of Objects and Reasons, see Gazette of India, 1918, Pt. V, page 73; and for Proceedings in Council, see *ibid.*, 1918, Pt. VI, pp. 954 and 999.

² *Supra.*

Amendment of section 3, Act IV of 1917.

Insertion of new section 11-A in Act III of 1917.

ACT No. XX OF 1918.¹

[26th September, 1918.]

An Act to take power to prohibit the alteration, except with the sanction of the Governor General in Council, of articles of association which restrict foreign interests in certain Companies, and to provide for other purposes connected therewith.

WHEREAS it is expedient to take power to prohibit the alteration, except with the sanction of the Governor General in Council, of articles of association which restrict foreign interests in certain companies, and to provide for other purposes connected therewith ; It is hereby enacted as follows : —

Short title. 1. This Act may be called the Indian Companies (Foreign Interests) Act, 1918.

Definitions. 2. (1) In this Act—

(a) the expression “ British subject ” has the same meaning as in section 27 of the British Nationality and Status of Aliens Act, 1914, 4 & 5 Geo. 5, c. 17, but shall include any person who holds a certificate of naturalization as a British subject granted under any Act of the Governor General in Council for the time being in force, and any association incorporated in any part of His Majesty’s dominions : Provided that the said expression shall, for the purposes of this Act, be deemed to apply to any subject of a State in India ;

(b) the expression “ restrictive provision ” means any provision in the articles of association of a company which, in the opinion of the Governor General in Council, is designed to restrict or limit or has the effect of restricting or limiting the share or shares or interest which may be held, or the rights, powers or authority which may be conferred upon or exercised by or on behalf of persons other than British subjects in the company, or in respect of the control, management or direction of the affairs thereof.

(2) All words and expressions used in this Act and defined in the Indian Companies Act, 1913,² shall be deemed to have the meanings respectively VII of 1913. attributed to them by that Act.

¹ For Statement of Objects and Reasons, see Gazette of India, 1918, Pt. V, p. 74 ; and for Proceedings in Council, see *ibid*, 1918, Pt. VI, pp. 955 and 1140.

² Genl. Acts, Vol. VII.

3. This Act shall apply to such companies as the Governor General in Council may, by notification in the Gazette of India, declare to be companies with restrictive provisions, and any such notification shall specify the restrictive provisions.

4. So long as a notification issued under section 3 is in force in respect of any company, notwithstanding anything to the contrary in any other Act—

- Alterations in restrictive provisions and winding up.
- (1) no alteration of the articles of association of the company affecting either directly or indirectly any restrictive provision shall be of any effect until it has received the consent in writing of the Governor General in Council ;
 - (2) a resolution for the voluntary winding up of the company shall be of no effect unless the Governor General in Council authorises or ratifies it by a written consent ;
 - (3) any Court which has jurisdiction to wind up the company may in its discretion refuse to make a winding up order. In the exercise of its discretion the Court shall be guided by the consideration whether the winding up is *bond fide* with a view to the discontinuance of the undertaking or is with a view to continuing the undertaking freed either wholly or in part from any restrictive provision ;
 - (4) the Governor General in Council in giving consent, or the Court in making a winding up order, as the case may be, may impose such terms or conditions for giving effect to the purposes of this Act as he or it thinks fit.

ACT No. XXI of 1918.¹

[26th September, 1918.]

An Act to provide that certain persons deemed to be enrolled under the Indian Defence Force Act, 1917, shall be liable to serve as well without the limits of India as within those limits, and that when so serving they shall be subject to the said Act.

WHEREAS it is expedient to provide that certain persons deemed to be enrolled under the Indian Defence Force Act, 1917,² shall be liable to serve as well without the limits of India as within those limits, and that when so serving

¹ For Statement of Objects and Reasons, see Gazette of India, 1918, Pt. V, p. 81 ; and for Proceedings in Council, see *ibid*, 1918, Pt. VI, pp. 1000 and 1140.

² *Supra*.

ing they shall be subject to the said Act, and that for this purpose, it is necessary further to amend the said Act ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Defence Force (Foreign Service) Amendment Act, 1918.

Amendment
of section 1
(2), Act III
of 1917.

2. To sub-section (2) of section 1 of the Indian Defence Force Act, 1917¹ III of 1917. (hereinafter called the said Act), the following words shall be added, namely :—

[*Vide* p. 207, *supra*.]

Amendment
of section 6,
Act III of
1917.

3. In section 6 of the said Act for the words "to serve in any part of India," the words "to serve within or without the limits of India" shall be substituted.

ACT No. XXII OF 1918.²

[26th September, 1918.]

An Act to provide that certain bronze coins coined outside British India shall be legal tender in British India.

WHEREAS it is expedient to provide that certain bronze coins coined outside British India shall be legal tender in British India ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Bronze Coin (Legal Tender) Act, 1918.

Power to
declare cer-
tain bronze
coins coined
outside
British India
to be legal
tender.

2. (1) Where bronze coins of any of the denominations specified in section 8 of the Indian Coinage Act, 1906,³ are coined outside British India at the request of the Governor General in Council, and the Governor General in Council is satisfied that such coins are in accordance with the requirements of section 9 and of any notification for the time being in force under section 10 of the said Act, he may, by notification in the Gazette of India, direct the issue of any such coins, and thereafter any such coins shall be legal tender in payment or on account in the same way and to the same extent as if they were coins referred to in section 14 of the said Act, and the provisions of the said Act shall apply accordingly.

(2) Every coin which is declared to be legal tender by sub-section (1) shall be deemed to be Queen's coin within the meaning of section 230 of the Indian Penal Code.⁴ 1860.

¹ *Supra*.

² For Statement of Objects and Reasons, see Gazette of India, 1918, Pt. V, p. 82 ; and for Proceedings in Council, see *ibid*, 1918, Pt. VI, pp. 1001 and 1140.

³ Genl. Acts, Vol. VI.

⁴ Genl. Acts, Vol. I.

ACT No. XXIII OF 1918.¹

[26th September, 1918.]

An Act to take powers to provide for the cheap supply of cotton cloth to the poorer classes of the community.

WHEREAS it is expedient to take powers for the purpose of encouraging or maintaining the supply, at reasonable rates, to the poorer classes of the community, of cotton cloth manufactured in this country ; It is hereby enacted as follows :—

1. This Act may be called the Cotton Cloth Act, 1918. Short title.
2. In this Act, unless there is anything repugnant in the subject or Definitions context, —
 - (a) “ Controller ” means a Controller appointed under this Act ;
 - (b) “ cotton cloth ” means cotton cloth manufactured in this country ;
and
 - (c) “ standard cloth ” means any kind of cotton cloth which a Controller may, from time to time, declare to be standard cloth.
3. The Governor General in Council may, by notification in the Gazette of India, ^{Power to} appoint one or more persons as he may think fit to be Controllers for ^{the purposes} of this Act, and shall specify in any such notification the area in which any Controller so appointed shall exercise his powers.
4. (1) Whenever it appears to a Controller that such a course is necessary ^{Powers of} or expedient for the purpose of encouraging or maintaining the supply of ^{the Controller} standard cloth, at reasonable rates to the poorer classes of the community, he may (subject to this Act and the rules made thereunder and to the control of the Governor General in Council) make general or special orders regulating or giving directions within the area in which he is empowered, with respect to the manufacture, transport, distribution and sale or purchase of, or other dealings in, cotton cloth.
- (2) Without prejudice to the generality of the foregoing power, orders may be made by a Controller—
 - (a) declaring and defining the classes of standard cloth ;

¹ For Statement of Objects and Reasons, see Gazette of India, 1918, Pt. V, p. 68 ; for Report of Select Committee, see *ibid.*, 1918, Pt. V, p. 77 ; and for Proceedings in Council, see *ibid.*, 1918, Pt. VI, pp. 754, 953, 1000 and 1147.

² For notification appointing the Controller of Cotton Cloth, see List of Gen. R. and O.

- (b) prescribing distinctive indications which shall be woven into, impressed or otherwise displayed upon, different classes of standard cloth ;
- (c) requiring any person, who ordinarily manufactures cotton cloth, to manufacture, or provide for the manufacture of, standard cloth in such quantity, of such quality and by such date as the Controller may direct ; and
- (d) fixing the prices to be paid to the manufacturer for standard cloth or for any particular class of standard cloth, and providing for the payment thereof on delivery :

Provided that in fixing prices the Controller shall have regard to the cost of production and to the allowance of a reasonable profit, without necessarily taking into consideration the market-price, and if the Controller is satisfied that the manufacturer has incurred actual loss arising out of forward contracts entered into before the commencement of this Act, and that such loss is immediately attributable to an order under this Act, he may take such loss into account :

Provided further that the Controller may fix different prices in the case of different localities or, if special reasons exist, in respect of different manufacturers in the same locality.

Appointment
of Advisory
Committees.

5. Where a Controller is appointed in exercise of the power conferred by section 3, the Governor General in Council shall appoint¹ a Committee consisting of such number of persons having knowledge of the cotton or cotton cloth trade as he thinks fit to assist the Controller with their advice in the performance of his duties. Before a Controller issues any order declaring and defining the classes of standard cloth or fixing the prices to be paid to the manufacturer, he shall consult the Committee, and he may consult the Committee on any other matter connected with his duties .

Provided that, if the opinion of the majority of members of the Committee who are present at any meeting is adverse to the issue of any order, the Controller shall, if he does not accept the Committee's advice, refer the matter for the decision of the Governor General in Council.

Manufacture
and delivery
of standard
cloth.

6. Where, by an order made in the exercise of powers conferred by section 4, the Controller has directed a manufacturer to manufacture, or provide for the manufacture of, standard cloth and has fixed the price therefor, the manufacturer shall deliver the same at such time and place and in such manner as the Controller may specify from time to time, and the Controller shall pay or

¹ For notifications appointing a Committee under s. 5, see Leg and O. W.

cause to be paid to the manufacturer the said price, together with the freight, if any, actually paid by the manufacturer.

7. Subject to the control of the Governor General in Council, a Controller may, from time to time by order in writing, delegate all or any of his powers subject to such conditions and restrictions as may be prescribed therein. Delegation of powers.

8. If any person acts in contravention of or, without reasonable cause, fails to comply with the provisions of any order made under section 4, or counterfeits upon any cloth a distinctive indication prescribed by the Controller, such person shall be punishable with imprisonment which may extend to six months, or with fine or with both. Penalty for disobedience of orders under section 4.

9. (1) The Local Government shall, if standard cloth is sold in the province, by order in writing which shall be notified in the local official gazette, fix the price at which alone standard cloth or any class of standard cloth shall be sold to the public. Power to fix prices of standard cloth.

(2) Orders may be made fixing different prices for different localities or for different methods of sale.

(3) Every such order shall be published in such manner as the Local Government may consider to be best adapted for bringing the prices so fixed to the notice of the poorer classes.

10. (1) No person shall sell or keep, offer or expose for sale to the public, standard cloth otherwise than at such price as may be fixed by the Local Government and in accordance with the terms and conditions of a license issued in this behalf. Limitation of sale of standard cloth.

(2) If any person contravenes the provisions of sub-section (1), he shall be punishable with imprisonment which may extend to six months, or with fine or with both.

11. A license for the sale of standard cloth shall be granted by such authority, in such form and subject to such conditions as the Local Government may prescribe by rules made under this Act. Grant of licenses for sale of standard cloth.

12. (1) The Governor General in Council may make rules—

(a) prescribing the powers and duties of the Controller,

(b) prescribing the manner in which the Controller's orders shall be published or served, as the case may be, and

(c) generally giving effect to the provisions of this Act. Rule-making power.

(2) The Local Government shall, if standard cloth is sold in the province, make rules prescribing the authority by which, the form in which and the conditions under which, any license or class of licenses for the sale of standard cloth shall be granted.

(3) Rules made under this Act shall be published in the Gazette of India or the local official gazette, as the case may be, and on such publication shall have effect as if enacted in this Act.

Protection for acts done under the Act. 13. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Powers of Act to be cumulative. 14. All powers given by this Act shall be in addition to and not in derogation of any other powers conferred by or under any enactment, and all such powers may be exercised in the same manner and by the same authority as if this Act had not been made.

ACT No. I of 1919.¹

[26th February, 1919.]

An Act to extend the powers of local authorities in regard to the granting of pensions and gratuities.

WHEREAS it is expedient to extend the powers of local authorities in regard to the granting of pensions and gratuities; It is hereby enacted as follows :—

Short title and extent. 1. (1) This Act may be called the Local Authorities Pensions and Gratuities Act, 1919.

(2) It extends to the whole of British India, including the Sonthal Parganas.

Definition. 2. In this Act "officer" means any person who has undertaken the service of Government and who immediately prior to undertaking such service, was paid and employed solely by a local authority and, but for undertaking such service, would in the ordinary course have continued in such employment.

Power to grant extraordinary pensions and gratuities. 3. Notwithstanding anything contained in any enactment or in any rule made thereunder regulating the powers of local authorities, and without prejudice to any powers conferred by or under any such enactment, a local authority may grant a pension or gratuity to any officer thereof who may, since the 4th day of August, 1914, have been wounded or otherwise incapacitated in the service of Government, and to the widow or child of any such officer who may have died in consequence of injuries received or illness contracted since the 4th day of August, 1914, in the course of such service.

¹ For Statement of Objects and Reasons, see Gazette of India, 1919, Pt. V, p. 18; and for Proceedings in Council, see *ibid*, 1919, Pt. VI, pp. 144, 145 and 197.

4. (1) Such pension or gratuity may be granted in addition to any pension or gratuity payable to the officer or his wife or child, as the case may be, under any general or special orders of His Majesty in Council or of the Governor General in Council, but shall not, save with the sanction of the Governor General in Council, exceed the amount of the pension or gratuity to which the officer or his wife or child would have been entitled under any such orders if his employment by the local authority had been service for the same time and on the same pay under Government. Provision as to pensions and gratuities.

(2) Any pension granted under this Act may be made to take effect from such date subsequent to the 4th day of August, 1914, and subject to such conditions as the local authority may think fit.

5. Subject to the provisions of this Act, the decision of a local authority to grant a pension or gratuity thereunder shall be made in such manner and shall be subject to such sanction as may be prescribed by any enactment or rule regulating the grant by such local authority of pensions and gratuities : Procedure.

Provided that in every case the sanction of the Local Government shall be necessary.

ACT No. II of 1919.¹

[12th March, 1919.]

An Act further to amend the Indian Paper Currency (Amendment) Act, 1917.

WHEREAS it is expedient further to amend the ²Indian Paper Currency (Amendment) Act, 1917 ; It is hereby enacted as follows :—

XIX of 1917. 1. This Act may be called the Indian Paper Currency (Amendment) Act, 1919. Short title.

XIX of 1917. 2. In section 2 of the ²Indian Paper Currency (Amendment) Act, 1917, for the words “six hundred and sixty millions,” the words “eight hundred millions” shall be substituted. Amendment of section 2, Act XIX of 1917.

VI of 1918. 3. The Indian Paper Currency (Amendment) Act, 1918, and the Indian Paper Currency (Amendment) Ordinance, 1918, are hereby repealed. Repeal of Act VI of 1918, and Ordinance III of 1918.

¹ For Statement of Objects and Reasons, see Gazette of India, 1919, Pt. V, p. 41 ; and for Proceedings in Council, see *ibid*, 1919, Pt. VI, pp. 255—258 and p. 434.

² *Supra*.

ACT No III OF 1919.¹

[12th March, 1919.]

An Act to extend the operation of the Motor Spirit (Duties) Act, 1917.

WHEREAS it is expedient to extend the operation of the ²Motor Spirit II of 1917. (Duties) Act, 1917; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Motor Spirit (Duties) Amendment Act, 1919.

Amendment of section 1, Act II of 1917. 2. In section 1 of the ²Motor Spirit (Duties) Act, 1917, the word “and” ^{II} of 1917. at the end of sub-section (2) and the whole of sub-section (3) shall be omitted.

ACT No. IV OF 1919.³

[12th March, 1919.]

An Act to amend the Indian Income-tax Act, 1918.

WHEREAS it is expedient to amend the ²Indian Income-tax Act, 1918; VII of 1918. It is hereby enacted as follows :—

Short title and commencement. 1. (1) This Act may be called the Indian Income-tax (Amendment) Act, 1919.

(2) It shall come into force on the 1st day of April, 1919.

Amendment of section 14, Act VII of 1918. 2. In the proviso to sub-section (2) of section 14 of the ²Indian Income-tax VII of 1918. Act, 1918 (hereinafter referred to as the said Act), for the word “one” the word “two” shall be substituted.

Amendment of section 18, Act VII of 1918. 3. In sub-section (4) of section 18 of the said Act, for the figures, brackets and word “17 (1), (2) or (3),” the figures, brackets and word “17 (1) or (2)” shall be substituted.

Substitution of new Schedule for Schedule I, Act VII of 1918. 4. For Schedule I to the said Act, the following Schedule shall be substituted, namely :—

[Fule p. 273, *supra*.]

Substitution of new Schedule for Schedule II, Act VII of 1918. 5. For Schedule II to the said Act, the following Schedule shall be substituted, namely :—

[Fide p. 273, *supra*.]

¹ For Statement of Objects and Reasons, see Gazette of India, 1919, Pt. V, p. 43, and for Proceedings in Council, see *ibid*, 1919, Pt. VI, pp 258 and 259 and p. 434.

² *Supra*.

³ For Statement of Objects and Reasons, see Gazette of India, 1919, Pt. V, p. 46; and for Proceedings in Council, see *ibid*, 1919, Pt. VI, pp 259 and 435.

6. In the said Act, sub-section (3) of section 17, Chapter III, and in section 35 the words "or in a notice or order under section 30" are hereby repealed: Repeals.

Provided that such repeal shall not affect the liability of any person to pay any sum due from him or any existing right of refund under the said Act.

ACT No. V of 1919.¹

[19th March, 1919.]

An Act to make provision to determine the date of the termination of the present war and for purposes connected therewith.

WHEREAS it is expedient to make provision to determine the date of the termination of the present war and for purposes connected therewith; It is hereby enacted as follows:—

1. This Act may be called the Termination of the Present War (Definition) Act, 1919. Short title.

2. For the purposes of any provision in any enactment or in any notification or rule issued or made thereunder, and except when the context otherwise requires, of any provision in any contract, deed or other instrument referring, expressly or impliedly, and in whatever form of words, to the present war or the present hostilities,— Date of termination of present war to be such as may be declared by His Majesty in Council.

(1) the present war shall be treated as having continued to and as having ended on such date as His Majesty in Council may declare in that behalf in pursuance of the provisions of the Termination of the Present War (Definition) Act, 1918, and

(2) the date of termination of war between His Majesty and any particular State shall be the date similarly declared under sub-section (3) of section 1 of the said Act.

8 & 9 Geo.
V., c. 59.

ACT No. VI of 1919.²

[19th March, 1919.]

An Act further to amend the Indian Oaths Act, 1873.

X of 1873. WHEREAS it is expedient further to amend the ³Indian Oaths Act, 1873; It is hereby enacted as follows:—

1. This Act may be called the Indian Oaths (Amendment) Act, 1919. Short title.

X of 1873. 2. In section 3 of the Indian Oaths Act, 1873, after the word "prescribed," the words "by or under any Instruction under the Royal Sign Manual of His Majesty or" shall be inserted. Amendment of section 3 Act X of 1873.

¹ For Statement of Objects and Reasons, see Gazette of India, 1919, Pt. V, p. 20; and for Proceedings in Council, see *ibid.*, 1919, Pt. VI, pp. 157 and 803.

² For Statement of Objects and Reasons, see Gazette of India, 1919, Pt. V, p. 24; and for Proceedings in Council, see *ibid.*, 1919, Pt. VI, pp. 197 and 804.

³ Genl. Acts, Vol. II.

ACT No. VII OF 1919.¹

[19th March, 1919]

An Act to extend the operation of the Indian Defence Force Act, 1917.

WHEREAS it is expedient to extend the operation of the ²Indian Defence Force Act, 1917 ; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Indian Defence Force (Amendment) Act, 1919. III of 1917.

Amendment of section 1, Act III of 1917. 2. In sub-section (3) of section 1 of the ²Indian Defence Force Act, 1917, for the words "six months" the words "one year" shall be substituted. III of 1917.

ACT No. VIII OF 1919.³

[19th March, 1919]

An Act further to amend the Negotiable Instruments Act, 1881.

WHEREAS it is expedient further to amend the ⁴Negotiable Instruments Act, 1881, It is hereby enacted as follows :—

Short title. 1. This Act may be called the Negotiable Instruments (Amendment) Act, 1919. XXVI of 1881.

Amendment of section 9, Act XXVI of 1881. 2. In section 9 of the ⁴Negotiable Instruments Act, 1881 (hereinafter called the said Act), for the words "payable to, or to the order of, a payee," the words "payable to order" shall be substituted. XXVI of 1881.

Amendment of section 13, Act XXVI of 1881. 3. For sub-section (1) of section 13 of the said Act, the following sub-section shall be substituted, namely :—

"(1) A 'negotiable instrument' means a promissory note, bill of exchange or cheque payable either to order or to bearer.

Explanation (i).—A promissory note, bill of exchange or cheque is payable to order which is expressed to be so payable or which is expressed to be payable to a particular person, and does not contain words prohibiting transfer or indicating an intention that it shall not be transferable.

Explanation (ii).—A promissory note, bill of exchange or cheque is payable to bearer which is expressed to be so payable or on which the only or last indorsement is an indorsement in blank.

Explanation (iii).—Where a promissory note, bill of exchange or cheque, either originally or by indorsement, is expressed to be payable to the order of a specified person, and not to him or his order, it is nevertheless payable to him or his order at his option."

¹ For Statement of Objects and Reasons, see Gazette of India, 1919, Pt. V, p. 51, and for Proceedings in Council, see *ibid*, 1919, Pt. VI, pp 804 - 806.

² *Supra*.

³ For Statement of Objects and Reasons, see Gazette of India, 1919, Pt. V, p. 27 ; and for Proceedings in Council, see *ibid*, 1919, Pt. VI, pp. 199 and 200 and 806.

⁴ Genl. Acts, Vol. III.

1919 : Act VIII.]

Negotiable Instruments.

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1919 : Act IX.]

Punjab Courts.

1919 : Act X.]

Excess Profits Duty.

4. In section 48 of the said Act, for the words "payable to the order of a specified person, or to a specified person or order," the words "payable to order" shall be substituted. Amendment of section 48, Act XXVI of 1881.

5. In section 121 of the said Act, for the words "payable to, or to the order of, a specified person," the words "payable to order" shall be substituted. Amendment of section 121, Act XXVI of 1881.

ACT No. IX of 1919.¹

[19th March, 1919.]

An Act to supplement the Punjab Courts Act, 1918.

Punj. Act,
VI of 1918.

WHEREAS it is expedient to supplement the Punjab Courts Act, 1918; It is hereby enacted as follows :—

1. (1) This Act may be called the Punjab Courts (Supplementing) Act, 1919. Short title and commencement.

(2) It shall come into force on such date² as may be notified by the Governor General in Council in this behalf.

¹2. All suits, appeals, revisions, applications, reviews, executions and other proceedings whatsoever, whether civil or criminal, pending in the Chief Court of the Punjab, shall be continued and concluded in the High Court of Judicature at Lahore as if the same had been instituted in such High Court; and the High Court of Judicature at Lahore shall exercise the same jurisdiction in relation to all such proceedings as if the same had been instituted and continued in such High Court. Provisions regarding proceedings pending in the Chief Court of the Punjab.

ACT No. X of 1919.³

[20th March, 1919.]

An Act to impose a duty on excess profits arising out of certain businesses.

WHEREAS it is expedient to impose a duty on excess profits arising out of certain businesses; It is hereby enacted as follows :—

1. (1) This Act may be called the Excess Profits Duty Act, 1919.

(2) It shall come into force on the 1st April, 1919.

2. In this Act, unless there is anything repugnant in the subject or context,— Short title and commencement. Definitions.

"accounting period" means the twelve months ending on the 31st March, 1919, or if the accounts of the business have been made up within the said twelve months for the purposes of the ⁴Indian Income-tax Act, 1918, in respect

VII of 1918.

¹ For Statement of Objects and Reasons, see Gazette of India, 1919, Pt. V, p. 65; and for Proceedings in Council, see *ibid* 1919, Pt. VI, p. 827.

By virtue of s. 3 of Act VII of 1915, *supra*, s. 2 of Act IX of 1919 applies to proceedings arising out of Delhi cases, and to that extent the latter Act applies to Delhi Province for which no separate Code has been published.

² The 1st April 1919, see Gazette of India, 1919, Pt. I, p. 710.

³ For Statement of Objects and Reasons, see Gazette of India, 1918, Pt. V, pp. 90 and 91; for Report of Select Committee, see *ibid* 1919 Pt. V, pp. 53-57; and for Proceedings in Council, see *ibid*, 1919, Pt. VI, pp. 158-170, 181 and 806-827.

⁴ *Supra*.

of a year ending on any date other than the said 31st March, then the year ending on that other date ;

"business" includes any trade, commerce or manufacture, or any adventure or concern in the nature of trade, commerce or manufacture ;

"Chief Revenue-authority" means the Board of Revenue or the Financial Commissioner in provinces where those authorities exist, and in any other case such authority as the Local Government may declare to be the Chief Revenue-authority for the purposes of this Act ;

"prescribed" means prescribed by rules made under this Act.

All expressions used or embodied by reference in this Act which are not hereinbefore defined shall have the same meaning as is attributed to them by the ¹Indian Income-tax Act, 1918.

VII of 1918.

Application
of Act.

3. This Act shall apply to every business (other than the businesses specified in Schedule I) which is, during any part of the accounting period, either carried on in British India by any person or owned or carried on in any place in India by a person ordinarily resident in British India.

Imposition
of excess
profits duty.

4. Subject to the provisions of this Act, there shall, in respect of any business to which this Act applies, be charged, levied and paid on the amount by which the profits in the accounting period exceed the standard profits, a duty (in this Act referred to as "excess profits duty") of an amount equal to fifty per cent. of that excess :

Provided that the amount of the said duty shall not exceed such sum as would reduce the profits in the accounting period below thirty thousand rupees.

Ascertain-
ment of
profits in the
accounting
period.

5. The profits of a business in the accounting period shall, at the option of the person by whom the excess profits duty in respect of that business is payable, be or be deemed to be,—

(a) the taxable income as finally ascertained for the purposes of the ¹Indian Income-tax Act, 1918, or

VII of 1918.

(b) when the accounting period in respect of the business ends on any date other than the 31st March, 1919, and the accounts of the business are made up for an additional period ending on the said 31st March, a sum which bears the same proportion to the taxable income of the total period (such taxable income being ascertained as nearly as may be in accordance with the provisions of the said Act) as a period of one year bears to the total period.

Explanation.—The profits in the accounting period shall, notwithstanding any composition in force for the purposes of the said Act, be actually ascertained in accordance with the provisions of that Act.

Standard
profits.

6. (1) The standard profits of a business shall be as follows :—

(a) an amount calculated at the rate of ten per cent. or at such rate not being less than ten per cent. as may be prescribed, on the capital

¹ *Supra.*

of the business as existing at the end of the accounting period, in which case the capital of the business shall, for the purposes of this Act, be ascertained in accordance with the provisions of Schedule II; or

(b) at the option of the person by whom excess profits duty in respect of the business is payable—

- (i) if the profits of the business have been assessed in the years 1913 and 1914 for the purposes of the income-tax law then in force—the aggregate of half of the profits so assessed and half of the interest, if any, received in those years on securities forming part of the assets of the business; or
- (ii) if the profits of the business have been assessed for the said purposes in the years 1913 and 1914, and in two only of the three years 1915, 1916 and 1917—the aggregate of one fourth of the profits so assessed and one-fourth of the interest if any received in the same four years on securities forming part of the assets of the business; or
- (iii) if the profits of the business have been assessed for the said purposes in all the five years 1913, 1914, 1915, 1916 and 1917—the aggregate of one-fourth of the profits assessed in the years 1913 and 1914 and in such two of the years 1915, 1916 and 1917 as may be selected by the said person and one-fourth of the interest, if any, received in the same four years on securities forming part of the assets of the business:

Provided that if the average capital employed in the business in the years adopted for the purpose of determining the standard profits is less or more than the capital so employed at the end of the accounting period, there shall be made to or from the standard profits an addition or a deduction, as the case may be, which shall bear to the standard profits the same proportion as such increase or decrease of capital bears to the average capital so employed in the years so adopted.

Explanation.—For the purpose of ascertaining the average capital employed, the capital employed in the business in any year shall be deemed to be the capital so employed at the end of that year:

Provided further that if the assessment in any of the said years was made in respect of a period of less than twelve months, that assessment shall, for the purpose of determining the standard profits, be proportionately increased.

(2) If a composition for income-tax was in force in any of the years 1913, 1914, 1915, 1916 and 1917, such composition shall be deemed for the purposes of clause (b) of sub-section (1) to have been the assessment, and the profits shall be determined in accordance therewith:

Provided that the person by whom excess profits duty in respect of the business is payable shall, notwithstanding any such composition, be entitled to have an assessment of the profits of the business made for the purpose of determining the standard profits, in the same way as the assessment would have been made if no such composition had been agreed upon.

(3) Each of the years referred to in sub-sections (1) and (2) shall be deemed to be the twelve months commencing with the 1st of April in the year mentioned.

(4) Notwithstanding anything contained in this section no increase of capital made after the 31st December, 1918, shall be taken into account in any case, and no such increase before that date shall be taken into account when it appears or to the extent to which it appears that the increase was made with intent to evade or has the effect of evading the payment of the excess profits duty.

Power to
Collector
to make
allowances
for special
circum-
stances.

7. On the application (made in accordance with the provisions of clause (b) of sub-section (2) of section 11) of any person chargeable with excess profits duty alleging that, owing to any of the following circumstances, namely :—

- (a) any change in the constitution of a partnership of which he is or was a member,
- (b) any postponement or suspension, as a consequence of the present war of renewals or repairs,
- (c) any exceptional depreciation or obsolescence (including the cost of replacement during the accounting period), due to the present war, of assets employed in the business,
- (d) the provision, in connection with the requirements of the present war, of plant or machinery which will not be required for the purposes of the business after the termination of the war,
- (e) the fact that the assets of the business consist to any material extent of shares in a company the business of which is itself chargeable to excess profits duty,
- (f) the liability of any part of the profits of the business to excess profits duty in the United Kingdom, or
- (g) any special circumstances connected with the nature of the business or the period for which any profits are ascertained or determined,

the provisions of this Act for the calculation of excess profits duty operate unfairly in his case, the Collector may make such allowances in calculating the amount of the duty as seem to him to be necessary to meet the special circumstances, provided that any such allowance shall not reduce the amount of duty payable under the provisions of the Act by more than twenty-five per cent. without the previous sanction of the Commissioner

8. (1) If any person who has applied under section 7 is dissatisfied with the decision of the Collector on his application, he may appeal to the Chief Revenue-authority which shall, at the option of such person, either itself decide such appeal or refer it to a Board of Referees to be appointed by the Local Government. The Board shall hear and consider any appeal so referred and shall communicate its decision to the Chief Revenue-authority.

(2) The Chief Revenue-authority and the Board shall be entitled to take into account any of the circumstances specified in section 7, and to modify the decision of the Collector with reference thereto in such way and to such extent as they may consider just and equitable.

(3) Every Board of Referees appointed under this section shall consist of three or, in cases which the Local Government considers to be of difficulty or importance, of four persons. When the Board consists of four persons, the Local Government shall appoint one of the members to be Chairman. In any case at least two members of the Board shall be persons not in the service of Government and having in the opinion of the Local Government adequate business experience.

(4) In case of a difference of opinion between the members of the Board, the opinion of the majority shall prevail. When the Board consists of four members and the members are equally divided in opinion, the Chairman shall have a second or casting vote.

(5) The decision of the Chief Revenue-authority on any appeal under this section or of the Board where an appeal is referred to it shall notwithstanding any other provision of this Act be final, and shall be deemed to be the basis of assessment in the particular case.

9. (1) The Governor General in Council may, on the application made before the 30th June, 1919, of any person alleging that owing to special circumstances to be stated in the application the provisions of this Act for the calculation of excess profits duty would operate unfairly in the case of any class of business in which such person is engaged, refer such application for the report of a Board of special Referees to be appointed in this behalf by the Governor General in Council.

Power of Governor General in Council to deal with hardship in case of a class of business.

(2) Every Board appointed under this section shall consist of four persons, of whom at least two shall be persons not in the service of Government. The Governor General in Council shall appoint one member to be Chairman.

(3) On receipt of the report of the Board, the Governor General in Council shall consider the same and pass thereon such orders as he thinks fit. Any such order may vary the basis or method of assessment in respect of the class of business so reported on, and any variations so made shall be deemed to be

modifications of this Act in respect of the matters to which they relate, and this Act shall apply accordingly.

Notice to be given by liquidator that excess profits have been made.

10. Every liquidator of a company which is being wound up at the commencement of this Act or is wound up after the commencement of this Act and which is chargeable to excess profits duty shall before the 31st May, 1919, or within two months of the commencement of the winding up, as the case may be, give notice of the fact to the Collector.

Return for the purposes of the Act.

11. (1) The Collector may, for the purposes of this Act, require any person whom he believes to be engaged in any business to which this Act applies or to have been so engaged during the accounting period or in the year ending on the 31st March, 1912, or on the 31st March in any year thereafter, to furnish him, within two months after service upon him of a notice to that effect, with such particulars in connection with the business as the Collector may require.

(2) At the time of furnishing such particulars such person shall—

(a) state the method which he desires to be adopted for the purpose of—

(i) ascertaining the profits of the business in the accounting period under section 5, and

(ii) determining the standard profits under section 6, and

(b) make any application which he desires to make under section 7 for an allowance in the calculation of the amount of the excess profits duty.

(3) Where any person fails, without reasonable cause or excuse, to comply with the provisions of clause (a) of sub-section (2), the Collector shall proceed to ascertain the profits of the accounting period and to determine the standard profits by such method provided in this Act as he thinks fit.

Penalty.

12. If a person fails, without reasonable cause or excuse, to give to the Collector in due time any notice required by section 10 or to furnish any particulars referred to in section 11, he shall on conviction by a Magistrate be punishable with fine which may extend to thirty rupees for every day during which the default continues.

Assessment.

13. The amount of excess profits duty to be paid in respect of any business shall be assessed by the Collector, who may in any case where he thinks fit allow the duty to be paid in instalments of such amounts payable at such times as he may direct.

Person liable to be assessed.

14. The duty may be assessed on any person for the time being owning or carrying on the business whether as agent for the owner or otherwise or, where the business has ceased during the accounting period, on the person who owned or so carried on the business immediately before the time at which

the business ceased, and where there has been a change of ownership of the business during the accounting period, the Collector shall make the assessment in the prescribed manner.

VII of 1918. 15. The provisions of sections 20, 21, 22, 23, 24, 26, 27, and of Chapters IV and V and of sections 42, 45, 46, 47 and 49 to 52 of the ^{Application of provisions of Act VII of 1918.} ¹Indian Income-tax Act, 1918, shall apply, with such modifications, if any, as may be prescribed, as if the said provisions referred to excess profits duty instead of to income-tax, and every officer or authority exercising powers under the said provisions may exercise the like powers under this Act in regard to excess profits duty as he or it exercises in regard to income-tax under the said Act :

Provided that references in the said provisions to the assessee shall be construed as references to a person by whom excess profits duty is payable.

VII of 1918. 16. Notwithstanding anything contained in the ^{Income-tax papers to be available for the purposes of this Act.} ¹Indian Income-tax Act, 1918, or in any Act repealed thereby, all information contained in any statement or return made or furnished under the provisions of any of the said Acts or obtained or collected for the purposes of any such Act may be used for the purposes of this Act.

17. (1) A person shall not for the purposes of avoiding payment of excess profits duty enter into a fictitious or artificial transaction or carry out any fictitious or artificial operation, and if he has entered into any such transaction or carried out any such operation before the commencement of this Act ^{Prohibition of and penalty for fictitious transactions.} shall inform the Collector of the nature of the transaction or operation.

Explanation.—For the purposes of this section an artificial transaction or operation includes every device of whatever nature adopted for the purposes of presenting the accounts of a business in a misleading form or manner with intent to evade or having the effect of evading any obligation imposed by this Act.

(2) If any person acts in contravention of, or fails without reasonable cause or excuse to comply with, the provisions of sub-section (1), he shall on conviction by a Magistrate be punishable with fine which may extend to one thousand rupees.

18. (1) The Governor General in Council may, by notification in the ^{Power to make rules.} Gazette of India, make rules for carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the rate to be allowed in respect of any business or class of business for the purpose of clause (a) of sub-section (1) of section 6 ;
- (b) the procedure to be followed by Boards of Referees appointed under this Act ;

- (c) the basis and method of assessment when there has been a change of ownership during any period which can be selected for the purpose of determining standard profits, or during any subsequent period prior to the commencement of this Act; and
- (d) the adaptation to excess profits duty of any of the provisions of the ¹Indian Income-tax Act, 1918, which are made applicable to that VII of 1918, duty by section 15.
- (3) All rules made under this section shall have effect as if enacted in this Act.

^{Excess profits duty and super-tax to be alternately chargeable.} 19. Where the profits of any business in the accounting period are chargeable to excess profits duty under the provisions of this Act and to super-tax under the provisions of the ¹Super-tax Act, 1917, then— VIII of 1917.

(1) if the amount chargeable as excess profits duty exceeds that chargeable as super-tax, excess profits duty shall alone be charged, and

(2) if the amount chargeable as super-tax exceeds that chargeable as excess profits duty, super-tax shall alone be charged,

and the provisions of this Act and the ¹Super-tax Act, 1917, shall be construed accordingly. VIII of 1917.

^{Excess profits duty an allowance for the purposes of Act VII of 1918.} 20. The amount of excess profits duty paid in respect of any business shall be allowed as a deduction at the adjustment made in the year ending on the 31st March, 1920, in respect of the profits of that business for the purposes of section 19 of the ¹Indian Income-tax Act, 1918 : VII of 1918.

Provided that, if the amount of excess profits duty payable has not been ascertained at the time when the said adjustment is made, the amount by which the income-tax would have been reduced if effect had been given to the deduction shall be deducted from the amount payable for excess profits duty.

SCHEDULE I.

EXCEPTED BUSINESSES.

(See section 3.)

1. Any business the income from which is agricultural income
2. Offices or employments.
3. Any profession the profits of which are dependent mainly on the personal qualifications of the person by whom the profession is carried on, and in which no capital expenditure is required or only capital expenditure of an amount which is small when compared with the profits which the person carrying on the profession makes :

¹ *Supra.*

Provided that the business of any person taking commissions in respect of any transactions or services rendered, or any agent of any description (not being a whole-time officer or servant of the business or a commercial traveller, or an agent whose remuneration consists wholly of a fixed and definite sum not dependent on the amount of business done or any other contingency) shall not be included in this exception.

4. Any business which is liable to pay in respect of the accounting period excess profits duty in the United Kingdom.

5. Any business of which the profits in the accounting period do not exceed thirty thousand rupees.

SCHEDULE II.

ASCERTAINMENT OF CAPITAL.

(See section 6.)

1. The amount of the capital of a business shall, so far as it does not consist of money, be taken to be—

(a) so far as it consists of assets acquired by purchase, the price at which these assets were acquired, subject to any proper deduction for depreciation or for unpaid purchase money,

(b) so far as it consists of assets being debts due to the business, the nominal amount of those debts subject to any reduction which has been allowed or is allowable in respect of those debts under the Indian Income-tax Act, 1918, and

(c) so far as it consists of any other assets which have not been acquired by purchase, the value of the assets at the time when they became assets of the business, subject to any proper deduction for depreciation :

Provided that nothing in this provision shall prevent accumulated profits (other than those made in the accounting period) employed in the business being treated as capital.

2. Any borrowed money or trade debts shall be deducted in computing the amount of capital for the purposes of this Act.

3. Where any asset has been paid for otherwise than in cash, the cost price of that asset shall be taken to be the value of the consideration at the time the asset was acquired, but where the business has been converted into a company and more than two-thirds of the shares in the company are held by the person who was the owner of the business no value shall be attached to

Supra.

those shares, so far as they are represented by good-will or otherwise than by material assets of the company, unless the Collector in special circumstances otherwise directs. Patents and secret processes shall be deemed to be material assets.

ACT No. XI OF 1919.¹

[21st March, 1919.]

An Act to cope with anarchical and revolutionary crime.

WHEREAS it is expedient to make provision that the ordinary criminal law should be supplemented and emergency powers should be exercisable by the Government for the purpose of dealing with anarchical and revolutionary movements ;

And whereas the previous approval of the Secretary of State in Council has been accorded to the making of this law ; It is hereby enacted as follows :—

Short title,
extent and
duration.

1. (1) This Act may be called the Anarchical and Revolutionary Crimes Act, 1919 ;

(2) It extends to the whole of British India ; and

(3) It shall continue in force for three years from the ²date of the termination of the present war.

Definitions.

2. (1) In this Act, unless there is anything repugnant in the subject or context,—

“ Chief Justice ” means the Judge of highest rank in a High Court ;

“ The Code ” means the ³ Code of Criminal Procedure, 1898 ;

“ High Court ” means the highest Court of Criminal appeal or revision for any local area ;

V of 1898.

“ Scheduled offence ” means any offence specified in the Schedule.

(2) All words and expressions used in this Act and defined in the Code, and not hereinbefore defined, shall be deemed to have the meanings respectively attributed to them in the Code.

PART I.

Condition of
application
of Part I.

3. If the Governor General in Council is satisfied that, in the whole or any part of British India, anarchical or revolutionary movements are being promoted, and that scheduled offences in connection with such movements are prevalent to such an extent that it is expedient in the interests of the public

¹ For Statement of Objects and Reasons, see Gazette of India, 1919, Pt. V, pp. 10—16 ; for Report of Select Committee, see *ibid*, 1919, Pt. V, pp. 28—34 ; and for Proceedings in Council, see *ibid*, 1919, Pt. VI, pp. 18—65, 69—119, 255, 435—492, 509—635, 637—723, 731—797.

² As to date of termination of the war, see Act V of 1919, *supra*.

³ Genl. Acts, Vol. V.

safety to provide for the speedy trial of such offences, he may, by notification in the Gazette of India, make a declaration to that effect, and thereupon the provisions of this Part shall come into force in the area specified in the notification.

4. (1) Where the Local Government is of opinion that the trial of any person accused of a scheduled offence should be held in accordance with the provisions of this Part, it may order any officer of Government to prefer a written information to the Chief Justice against such person. ^{Initiation of proceedings.}

(2) No order under sub-section (1) shall be made in respect of, or be deemed to include, any person who has been committed under the Code for trial before a High Court or a Court of Session, but, save as aforesaid, an order under that sub-section may be made in respect of any scheduled offence whether such offence was committed before or after the issue of the notification under section 3.

(3) The information shall state the offence charged and so far as known the name, place of residence, and occupation of the accused, and the time and place when and where the offence is alleged to have been committed and all particulars within the knowledge of the prosecution of what is intended to be proved against the accused.

(4) The Chief Justice may by order require any information to be amended so as to supply further particulars of the offence charged to the accused, and shall direct a copy of the information, or the amended information, as the case may be, to be served upon the accused in such manner as the Chief Justice may direct.

5. Upon such service being effected, and on application duly made to him, the Chief Justice shall nominate three of the High Court Judges (hereinafter referred to as the Court) for the trial of the information, and shall fix a date for the commencement of the trial : ^{Constitution of Court.}

Provided that, when the total number of Judges of the High Court does not exceed three, the Chief Justice shall nominate not more than two such Judges, and shall complete the Court by the nomination of one or, if necessary, two persons of either of the following classes, namely :—

- (a) persons who have served as permanent Judges of the High Court ; or
- (b) with the consent of the Chief Justice of another High Court, persons who are Judges of that High Court.

6. The Court may sit for the whole or any part of a trial at such place or places in the province as it may consider desirable : ^{Place of sitting.}

Provided that if the Advocate General certifies to the Court that it is in his opinion necessary in the interests of justice that the whole or any part of

a trial shall be held at some place other than the usual place of sitting of the High Court, the Court shall, after hearing the accused, make an order to that effect, unless for reasons to be recorded in writing it thinks fit to make any other order. It shall not be necessary for the certificate of the Advocate General to be supported by any affidavit, nor shall he be required to state the grounds upon which such certificate was given.

Application
of Code of
Criminal
Procedure
subject to
this Part.

7. The provisions of the Code shall apply to proceedings under this Part in so far as the said provisions are not inconsistent with the provisions of this Part and such proceedings shall be deemed to be proceedings under the Code, and the Court shall have all the powers conferred by the Code on a Court of Session exercising original jurisdiction.

Trial.

8. (1) The trial shall be commenced by the reading of the information, and thereafter the prosecutor shall state shortly by what evidence he expects to prove the guilt of the accused.

(2) The Court shall then, subject to the provisions of this Part, in trying the accused, follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates.

Adjourn-
ment.

9. If a charge is framed, the accused shall be entitled to ask for an adjournment for fourteen days, or any less period that he may specify, and the Court shall comply with his request, but, subject to the adjournment provided for by this section, the Court shall not be bound to adjourn any trial for any purpose, unless such adjournment is in its opinion necessary in the interests of justice.

Record of
evidence.

10. The Court shall cause the evidence of each witness who is examined to be recorded in full in such manner as the Court may direct.

Prohibition
or restriction
of publi-
cation of
reports of
trial.

11. The Court, if it is of opinion that such a course is necessary in the public interest or for the protection of a witness, may prohibit or restrict in such way as it may direct the publication or disclosure of its proceedings or any part of its proceedings.

Examination
of accused.

12. (1) No questions shall be put by the Court to the accused in the course of a trial under this Part until the close of the case for the prosecution. Thereafter, and before the accused enters on his defence, the Court shall inform the accused that he is entitled, if he so desires, to give evidence on oath on his own behalf, and shall at the same time inform him that if he does so, he will be liable to cross-examination. Unless the accused then states that he desires to give evidence on oath, the Court may at any time thereafter question the accused generally on the case in accordance with the provisions of section 342 of the Code.

(2) If, when so called upon, the accused states that he desires to give evidence on oath, the Court shall not at any subsequent stage put any question to him :

Provided that if the accused does not so give evidence, then, after the witnesses for the defence have been examined, the Court may question the accused generally on the case in accordance with the provisions of the said section.

(3) The failure of the accused to give evidence on oath shall not be made the subject of any comment by the prosecution, nor shall the Court draw any inference adverse to the accused from such failure.

(4) If the accused gives evidence on oath, the following rules shall be observed, namely :—

(a) He may be asked any question in cross-examination notwithstanding that it would tend to criminate him as to the offence charged.

(b) He shall not be asked, and if asked shall not be required to answer, any question tending to show that he has committed or been convicted of, or has been charged with, any offence other than that with which he is then charged, or has a bad character, unless—

(i) proof that he has committed or been convicted of such other offence is admissible evidence to show that he is guilty of the offence with which he is then charged, or

(ii) witnesses for the prosecution have been cross-examined with a view to establish his own good character, or he has given evidence of his good character, or the nature or the conduct of the defence is such as to involve imputations on the character of the witnesses for the prosecution, or

(iii) he has given evidence against any other person charged with the same offence.

(c) Unless otherwise ordered by the Court, he shall give his evidence from the witness-box or other place from which the other witnesses give their evidence.

13. If the accused or any one of the accused calls and examines any witness, the right of the final reply shall lie with the prosecution, but in all other cases with the accused : Right of
reply.

Provided that the examination of an accused as a witness shall not of itself confer the right of final reply on the prosecution.

14. In the event of any difference of opinion among the members of the Court, the opinion of the majority shall prevail. Differences
of opinion.

Accused may
be convicted
of any offence
referred to in
Schedule.
Sentence.

15. At any trial under this Part the accused may be charged with and convicted of any offence against any provision of the law which is referred to in the Schedule.

16. The Court may pass upon any person convicted by it any sentence authorised by law for the punishment of the offence of which such person is convicted, and no order of confirmation shall be necessary in the case of any sentence passed by it :

Provided that a sentence of death shall not be passed upon any accused person in respect of whose guilt there is a difference of opinion among the members of the Court.

Exclusion of
interference
of other
Criminal
Courts.

17. The judgment of the Court shall be final and conclusive and, notwithstanding the provisions of the Code or of any other law for the time being in force, or of anything having the force of law by whatsoever authority made or done, there shall be no appeal from any order or sentence of the Court, and no High Court shall have authority to revise any such order or sentence or to transfer any case from such Court, or to make any order under section 491 of the Code or have any jurisdiction of any kind in respect of any proceedings under this Part :

Provided that nothing in this section shall be deemed to affect the powers of the Governor General in Council or of the Local Government to make orders under section 401 or section 402 of the Code in respect of any person sentenced by the Court.

Special rules
of evidence.

18. (1) Notwithstanding anything to the contrary contained in the Indian Evidence Act, 1872, where—

I of 1872.

(a) the statement of any person has been recorded by a Magistrate, and such statement has been read over and explained to the person making it and has been signed by him, or

(b) the statement of any person has been recorded by the Court, but such person has not been cross-examined,

such statement may be admitted in evidence by the Court if the person making the same is dead or cannot be found or is incapable of giving evidence, and it is established to the satisfaction of the Court that such death, disappearance or incapacity has been caused in the interests of the accused.

(2) Depositions recorded under section 512 of the Code may, in the circumstances specified in that section, be given in evidence at the trial of an accused under this Part.

Recall of
witnesses on
reconstitu-
tion of
Court.

19. In case of any reconstitution of the Court during the trial, the Court so reconstituted shall, if the accused so desires, recall and re-hear any witness who has already given evidence in the case.

20. The Chief Justice may from time to time make rules providing for— Power to make rules.
- (1) the appointment and powers of a President of the Court, and the procedure to be adopted to complete the Court in the event of any Judge of the Court being prevented from attending throughout the trial of an accused; and
 - (2) any matters (including the intermediate custody of the accused and his release on bail) which appear to him necessary for carrying into effect or supplementing the provisions of this Part preliminary or ancillary to trials.

PART II.

21. If the Governor General in Council is satisfied that anarchical or revolutionary movements which are, in his opinion, likely to lead to the commission of scheduled offences are being extensively promoted in the whole or any part of British India, he may, by notification in the Gazette of India, make a declaration to that effect, and thereupon the provisions of this Part shall come into force in the area specified in the notification. Condition of application of Part II.

22. (1) Where, in the opinion of the Local Government, there are reasonable grounds for believing that any person is or has been actively concerned in such area in any movement of the nature referred to in section 21, the Local Government may place all the materials in its possession relating to his case before a judicial officer who is qualified for appointment to a High Court and take his opinion thereon. If, after considering such opinion, the Local Government is satisfied that action under the provisions of this section is necessary, it may by order in writing containing a declaration to the effect that such person is or has been actively concerned in such area in any movement of the nature referred to in section 21, give all or any of the following directions, namely: that such person— Powers exercisable when Part II is in force.

- (a) shall, within such period as may be specified in the order, execute a bond with or without sureties undertaking, for such period not exceeding one year as may be so specified, that he will not commit, or attempt or conspire to commit, or abet the commitment of, any offence against any provision of the law which is referred to in the Schedule;
- (b) shall notify his residence and any change of residence to such authority as may be so specified;
- (c) shall remain or reside in any area in British India so specified; provided that, if the area so specified is outside the province, the concurrence of the Local Government of that area to the making of the order shall first have been obtained;

(d) shall abstain from any act so specified which, in the opinion of the Local Government, is calculated to disturb the public peace or is prejudicial to the public safety ; and

(e) shall report himself to the officer in charge of the police-station nearest to his residence at such periods as may be so specified.

(2) Any order under clauses (b) to (e) of sub-section (1) may also be made to take effect upon default by the person concerned in complying with an order under clause (a) of that sub-section.

Service of
orders under
section 22.

23. An order made under section 22 shall be served on the person in respect of whom it is made in the manner provided in the Code for service of summons, and upon such service such person shall be deemed to have due notice thereof.

Enforcement
of orders.

24. The Local Government and every officer of Government to whom a copy of any order made under section 22 may be directed by, or under the general or special authority of the Local Government, may use all means reasonably necessary to enforce compliance with the same.

Interim
nature of
order made
by Local
Government.

25. An order made under section 22 shall only continue in force for a period of one month, unless it is extended by the Local Government as hereinafter provided in this Part.

Reference to
investigating
authority.

26. (1) When the Local Government makes an order under section 22 such Government shall, as soon as may be, forward to the investigating authority to be constituted under this Act, a concise statement in writing setting forth plainly the grounds on which the Government considered it necessary that the order should be made, and shall lay before the investigating authority all material facts and circumstances in its possession relevant to the inquiry.

(2) The investigating authority shall then hold an inquiry *in camera* for the purpose of ascertaining what, in its opinion, having regard to the facts and circumstances adduced by the Government, appears against the person in respect of whom the order has been made. Such authority shall in every case allow the person in question a reasonable opportunity of appearing before it at some stage in its proceedings and shall, if he so appears, explain to him the nature of the charge made against him and shall hear any explanation he may have to offer, and shall make such further investigation (if any) as appears to such authority to be relevant and reasonable ;

Provided that—

(a) nothing in this sub-section shall be deemed to entitle the person whose case is before the investigating authority to appear or to be represented before it by pleader, nor shall the Local Government be so entitled ;

- (b) the investigating authority shall not disclose to the person in question any fact the communication of which might endanger the public safety or the safety of any individual ;
- (c) if the person in question requests the investigating authority to secure the attendance of any person or the production of any document or thing, such authority shall, unless for reasons to be recorded in writing it deems it unnecessary so to do, cause such person to attend or such document or thing to be produced, and for that purpose shall have all the powers conferred on a District Magistrate in respect of those matters by the Code.

(3) Subject to the provisions of sub-section (2) the inquiry shall be conducted in such manner as the investigating authority considers best suited to elicit the facts of the case ; and in making the inquiry, such authority shall not be bound to observe the rules of the law of evidence.

(4) Any statement made to an investigating authority by any person other than the person whose case is under investigation shall be deemed to be information given to a public servant within the meaning of section 182 of the ¹Indian Penal Code.

XLV of
1860.

(5) On the completion of the inquiry, the investigating authority shall report in writing to the Local Government the conclusions at which it has arrived, and shall adduce reasons in support thereof. In so reporting the investigating authority shall state whether or not, in its opinion, the person whose case is under investigation is or has been actively concerned in any movement of the nature referred to in section 21.

(6) If the investigating authority has not completed the inquiry within the period for which the duration of the order is limited by section 25, such authority may recommend to the Local Government that the period of duration of the order shall be extended for such period as it may consider necessary, and on such a recommendation the Local Government may extend the duration of the order accordingly.

27. (1) On receipt of the report of the investigating authority, the Local Government may discharge the order made under section 22, or may make any order which is authorised by that section :

Disposal of
report of in-
vestigating
authority.

Provided that—

- (a) any order so made shall recite the conclusions of the investigating authority as reported by that authority ; and
- (b) a copy of such order shall be furnished to the person in respect of whom it is made.

¹ Genl. Acts, Vol. I.

(2) No order made under sub-section (1) shall continue in force for more than one year from the date of the order made under section 22.

(3) On the expiry of an order made under sub-section (1), the Local Government may, if it is satisfied that such a course is necessary in the interests of the public safety, again make in respect of the person to whom such order related any order which is authorised by section 22 :

Provided that before an order is made under this sub-section, a copy of the order which it is proposed to make shall be furnished to the person concerned, who may submit to the Local Government a representation in regard to such order. Any such representation shall be forwarded by the Local Government to the investigating authority for inquiry and report, and such authority, after inquiry conducted in accordance with the provisions of section 26, shall report thereon, and the Local Government shall consider such report :

Provided further that no order made under this sub-section shall continue in force for more than a year from the date on which it was made.

(4) Any order made under this section may at any time be discharged or may be altered by the substitution of any other order authorised by section 22 :

Provided that no such alteration shall have the effect of prolonging the period for which such order would have been in force.

(5) The provisions of section 24 shall apply to the enforcement of orders made under this section.

Penalty for disobedience to order.

28. If any person fails to comply with, or attempts to evade, any order (other than an order to furnish security) made under section 22 or section 27, he shall on conviction by a Magistrate be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Provisions as to bonds.

29. The provisions of section 514 of the Code shall apply to bonds executed under the provisions of this Part, with this modification that the powers conferred by that section on the Court shall be exercisable by any District Magistrate or Chief Presidency Magistrate on application made on behalf of the Local Government.

Investigating authorities.

30. (1) As soon as may be after a notification has been issued bringing this Part into force, the Local Government shall appoint one or more investigating authorities for the purposes of this Part, and may appoint additional investigating authorities when necessary.

(2) Every investigating authority shall be appointed by order in writing, and shall consist of three persons, of whom two shall be persons having held judicial office not inferior to that of a District and Sessions Judge, and one shall be a person not in the service of the Crown in India.

(3) The Local Government may by like order appoint persons to fill casual vacancies occurring by reason of death, resignation of office or otherwise on any investigating authority, but in so doing shall observe the provisions of sub-section (2).

31. (1) The Local Government shall by order in writing appoint such persons as it thinks fit to be Visiting Committees to report upon the welfare and treatment of persons under restraint under this Part, and shall by rules prescribe the functions which these Committees shall exercise :

Visiting
Committees.

Provided that, in making such rules, provision shall be made for periodical visits to persons under restraint under the provisions of this Part :

Provided further that a person in respect of whom an order has been made under section 22 or section 27 requiring him to abstain from any specified act or to report himself to the police shall not be deemed to be under restraint for the purposes of this section.

(2) All rules made under sub-section (1) shall be published in the local official Gazette, and on such publication shall have effect as if enacted in this Part.

32. (1) The Local Government may make rules prescribing the authorities before whom and the manner in which bonds under this Part shall be executed, and providing for the procedure to be followed regarding the notification of residence and reports to the police by persons in respect of whom orders have been made under section 22 or section 27.

Power to
make rules
by Local
Government.

(2) All rules made under sub-section (1) shall be published in the local official Gazette, and on such publication shall have effect as if enacted in this Part.

PART III.

33. If the Governor General in Council is satisfied that in the whole or any part of British India anarchical or revolutionary movements are being promoted and that scheduled offences in connection with such movements are prevalent to such an extent as to endanger the public safety, he may, by notification in the Gazette of India, make a declaration to that effect, and thereupon the provisions of this Part shall come into force in the area specified in the notification.

Condition of
application
of Part III.

34. (1) Where, in the opinion of the Local Government, there are reasonable grounds for believing that any person has been or is concerned in such area in any scheduled offence, the Local Government may place all the materials in its possession relating to his case before a judicial officer who is qualified for appointment to a High Court and take his opinion thereon. If after considering such opinion the Local Government is satisfied that such

Powers
exercisable
when
Part III is
in force.

action is necessary it may make in respect of such person any order authorised by section 22, and may further by order in writing direct—

- (a) the arrest of any such person without warrant;
- (b) the confinement of any such person in such place and under such conditions and restrictions as it may specify :

Provided that no such person shall be confined in that part of a prison or other place which is used for the confinement of convicted criminal prisoners as defined in the ¹Prisons Act, 1894; and IX of 1894.

- (c) the search of any place specified in the order which, in the opinion of the Local Government, has been, is being, or is about to be, used by any such person for any purpose connected with any anarchical or revolutionary movement.

(2) The arrest of any person in pursuance of an order under clause (a) of sub-section (1) may be effected at any place where he may be found by any police officer or by any other officer of Government to whom the order may be directed.

(3) An order for confinement under clause (b) or for search under clause (c) of sub-section (1) may be carried out by any officer of Government to whom the order may be directed, and such officer may use all means reasonably necessary to enforce the same.

Arrest.

35. Any person making an arrest in pursuance of an order under clause (a) of sub-section (1) of section 34 shall forthwith report the fact to the Local Government, and pending receipt of the orders of the Local Government, may by order in writing commit any person so arrested to such custody as the Local Government may by general or special order specify in this behalf :

Provided that no person shall be detained in such custody for a period exceeding seven days unless the Local Government so directs, and in no case shall such detention exceed fifteen days.

Search.

36. An order for the search of any place issued under the provisions of clause (c) of sub-section (1) of section 34 shall be deemed to be a search warrant issued by the District Magistrate having jurisdiction in the place specified therein, and shall be sufficient authority for the seizure of anything found in such place which the person executing the order has reason to believe is being used, or is likely to be used, for any purpose prejudicial to the public safety, and the provisions of the Code, so far as they can be made applicable, shall apply to searches made under the authority of any such order and to the disposal of any property seized in any such search.

¹ Genl. Acts, Vol. IV.

37. Where an order (other than an order for arrest or search) has been made under section 34, the provisions of sections 23 to 27 shall apply in the same way as if the order were an order made under section 22, save that, on receipt of the report of the investigating authority, the Local Government may, subject to the conditions prescribed by section 27, make any order which is authorized by section 34, and sections 23 to 27 and 29 to 32 shall be deemed to be included in this Part.

Application
of Part II
procedure.

38. If any person fails to comply with, or attempts to evade, any order made under section 34 or section 37 other than an order to furnish security, he shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Penalty for
disobedience
to orders
under this
Part.

PART IV.

IV of 1915. 39. (1) On the expiration of the ¹Defence of India (Criminal Law Amendment) Act, 1915, every person in respect of whom an order under rule 3 of the Defence of India (Consolidation) Rules, 1915, was in force immediately before the expiration of that Act, and who has in the opinion of the Local Government been concerned in any scheduled offence, shall be deemed to be a person resident in an area in which a notification under section 21 is in force, and the provisions of Part II shall apply to every such person accordingly; and every person who is on such expiration in confinement in accordance with the provisions of the Bengal State Prisoners Regulation, 1818, shall be deemed to be a person resident in an area in which a notification under section 33 is in force, and the provisions of Part III shall apply to every such person accordingly:

Persons
already under
executive
control.

III of 1818
IV of 1915
Provided that within one month from the expiration of the ¹Defence of India (Criminal Law Amendment) Act, 1915, the Local Government may, subject to the conditions prescribed in the first proviso to sub-section (3) of section 27 as made applicable by section 37, make any order of restraint which is authorised by Part III in respect of any person who is in confinement in accordance with the provisions of the said Regulation, and if such an order is so made it shall be deemed to be an order made under sub-section (3) of section 27 as made applicable by section 37, and the provisions of that Part regarding such an order shall apply accordingly.

V of 1914.
I of 1915. (2) On the expiration of the ²Ingress into India Ordinance, 1914, as continued in force by the ¹Emergency Legislation Continuance Act, 1915, any person in respect of whom an order was in force immediately before such expiration under section 2 of that Ordinance read with clause (b) or clause (c) of

¹*Supra.*

²*See Appendix, infra.*

sub-section (2) of section 3 of the ¹Foreigners Ordinance, 1914, shall be deemed to be a person resident in an area in which a notification under section 21 is in force, and the provisions of ²Part II shall apply to every such person accordingly :

Provided that within one month from the expiration of the ¹Ingress into India Ordinance, 1914, the Local Government may, subject to the conditions prescribed in the first proviso to sub-section (3) of section 27, make any order of restraint which is authorised by that Part in respect of any such person, and if such an order is so made it shall be deemed to be an order made under sub-section (3) of section 27, and the provisions of that Part regarding such an order shall apply accordingly.

PART V.

Effect of
cancellation
of notifica-
tions under
sections 3, 21
or 33.

40. When a notification issued under section 3 or section 21 or section 33 is cancelled, such cancellation shall not affect any trial, investigation or order commenced or made under this Act, and such trial, investigation or order may be continued or enforced, and on the completion of any such investigation, any order which might otherwise have been made may be made and enforced, as if such notification had not been cancelled.

Effect of
orders made
under Parts
II and III
outside noti-
fied area.

41. (1) An order made under Part II or Part III, directing a person to remain or reside in any area in British India outside the area in which such Part is in force, shall be as valid and enforceable in like manner, as if such Part were in force throughout British India.

(2) An order made under clause (a) of sub-section (1) of section 34 for the arrest of any person may be executed at any place in British India outside the area in which Part III is in force, and the same procedure shall be followed as if Part III was in force throughout British India :

Provided that, if the arrest is made outside the province of the Local Government which made the order, the report required by section 35 shall be made to that Local Government, and the maximum period of detention limited by the proviso to that section shall be extended to twenty-one days.

Orders under
this Act not
to be called
in question
by the
Courts.

42. No order under this Act shall be called in question in any Court, and no suit or prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Powers of
Act to be
cumulative.

43. All powers given by this Act shall be in addition to, and not in derogation of, any other powers conferred by or under any enactment, and all such powers may be exercised in the same manner and by the same authority as if this Act had not been passed.

¹ See Appendix, *infra*.

THE SCHEDULE.

(See Section 2.)

XLV of
1860.

(1) Any offence under the following sections of the ¹Indian Penal Code, namely :—sections 121, 121A, 122, 123, 124, 131 and 132.

(2) Any of the following offences, if, in the opinion of Government, such offence is connected with any anarchical or revolutionary movement, namely :—

(a) any offence under sections 124A, 148, 153A, 302, 304, 326, 327, 329, 332, 333, 385, 386, 387, 392, 394, 395, 396, 397, 398, 399, 400, 401, 402, 431, 435, 436, 437, 438, 440, 454, 455, 457, 458, 459, 460, and 506 of the ¹Indian Penal Code ;

XLV of
1860.
VI of 1908.
XI of 1878.

(b) any offence under the ²Explosive Substances Act, 1908 ;

(c) any offence under section 20 of the ³Indian Arms Act, 1878.

(3) Any attempt or conspiracy to commit or any abetment of any of the above offences.

¹ Genl. Acts, Vol. I.

² Genl. Acts, Vol. VI.

³ Genl. Acts, Vol. II.

APPENDIX. **ORDINANCES I TO IX OF 1914 AND I OF 1917.**

CHRONOLOGICAL TABLE.

| 1 | 2 | 3 | 4 | 5 | 6 |
|-------|------|------------------|---|--|-------|
| Year. | No. | Date. | Short title. | How determined or otherwise affected by legislation. | Page. |
| 1914 | I | 7th August ... | The Indian Naval and Military News (Emergency) Ordinance, 1914. | Continued in force beyond six months by Act I of 1915. | ... |
| " | II | 14th August ... | The Impresment of Vessels Ordinance, 1914. | Ditto ... | ... |
| " | III | 20th August ... | The Foreigners Ordinance, 1914. | Ditto ... | ... |
| | | | | Supplemented Ordinance V of 1914. Am. Ordinance VII of 1914. Ordinance VIII of 1914. | |
| " | IV | 22nd August .. | The Indian Volunteers Ordinance, 1914. | Continued in force beyond six months by Act I of 1915. | ... |
| " | V | 5th September... | The Ingress into India Ordinance, 1914. | Ditto .. | ... |
| " | VI | 14th October .. | The Commercial Inter-course with Enemies Ordinance, 1914. | Ditto Am. Act XIV of 1915. | ... |
| " | VII | 14th October ... | The Foreigners (Amendment) Ordinance, 1914. | Continued in force beyond six months by Act I of 1915. | ... |
| " | VIII | 14th November | The Foreigners (Further Amendment) Ordinance, 1914. | Ditto ... | ... |
| " | IX | 30th November | The Articles of Commerce Ordinance, 1914. | Ditto ... | ... |
| 1917 | I | 2nd February ... | The Registration Ordinance, 1917. | Continued in force beyond six months by Act III of 1917, s. 18. Section 3 and Schedule II, Am. Act III of 1917, s. 18. | ... |

ORDINANCES.

ORDINANCE No. 1 OF 1914.¹

[7th August, 1914.]

An Ordinance for securing the control of the Press during war.

[Published in the Gazette of India, Extraordinary, of the 7th August, 1914.]

WHEREAS an emergency has arisen which makes it necessary to control the publication of naval or military news or information ,

Now, therefore, in exercise of the power conferred by section 23 of the Indian Councils Act, 1861, the Governor General is pleased to make and promulgate the following Ordinance —

Short title and
extent
Construction.

1. (1) This Ordinance may be called the Indian Naval and Military News (Emergency) Ordinance, 1914.

(2) It extends to the whole of British India, including British Baluchistan, the Sonthal Parganas, the District of Angul, the Shan States and the Pargana of Spiti ; and it applies also to :—

(a) All Native Indian subjects of His Majesty in any place without and beyond British India ,

(b) All other British subjects within the territories of any Native Prince or Chief in India ; and

(c) All servants of His Majesty, whether British subjects or not, within the territories of any Native Prince or Chief in India

Prohibition of
publication of
naval or
military news
or information.

2. It shall not be lawful to publish any information with reference to movements or dispositions of troops, ships, air-craft or war material or to the strategic or other plans or schemes of the naval or military authorities of any part of the British Empire or to any works or measures undertaken for or connected with the defence or fortification of the British Empire or any part thereof or any statement, comment or suggestion calculated directly or indirectly to convey any such information except when such information has been supplied for publication under the authority of the Governor General in Council or of a Local Government, or has been approved for publication by an officer appointed in this behalf,

(a) by the Governor General in Council ; or

(b) by any officer to whom the Governor General in Council has delegated the power of such appointment.

Explanation.—In this section the expression " British Empire " includes all territories under the suzerainty or protection of His Majesty.

Penalties.

3. The publisher, editor and printer of any newspaper, magazine, book, pamphlet or other documents by means of which any information, statement, comment or suggestion is published in contravention of this Ordinance shall severally be punishable in respect of each offence with imprisonment of either description for a term which may extend to one year, or with fine which may extend to five thousand rupees, or with both, and any other person

¹ Kept in force as long as the war lasts and for six months thereafter by Act I of 1915, *supra*.

For application of this Ordinance to Berar and certain other areas under the Indian (Foreign Jurisdiction) Order in Council, 1902, see Notification No. 1387-I. B., dated 11th Aug. 1914, in Leg. and O. W.

Naval and Military News.

who sells any newspaper, magazine, book, pamphlet or other document knowing it to contain any such information, statement, comment or suggestion or who is otherwise knowingly responsible for the publication of any such information, statement, comment or suggestion shall be liable to a similar penalty.

4. (1) No Court shall proceed to the trial of any offence punishable under this Ordinance unless upon complaint made by order of, or under authority from, the Governor General in Council, the Local Government or some officer empowered by the Governor General in Council in this behalf.

Restriction on trial of offences.

(2) No Magistrate other than a Presidency Magistrate, District Magistrate, or Sub-divisional Magistrate shall take cognizance of or try any offence punishable under this Ordinance.

5. Any police-officer may seize any newspaper, magazine, book, pamphlet or other document in which any information, statement, comment or suggestion is published in contravention of this Ordinance, and such officer shall forward anything seized to a Presidency Magistrate, District Magistrate or Sub-divisional Magistrate, having jurisdiction in the place where such thing was seized.

Power of police-officer to seize documents publishing information in contravention of this Ordinance.

6. (1) Whenever any newspaper, magazine, book, pamphlet or other document is published in contravention of this Ordinance, a Presidency Magistrate, District Magistrate or Sub-divisional Magistrate may, whether the offender is convicted or not, order that all copies of such newspaper, magazine, book, pamphlet or other document within the limits of his jurisdiction shall be confiscated.

Power of magistrate to confiscate documents published in contravention of Ordinance.

(2) A Magistrate making an order under sub-section (1) may issue a warrant to any police-officer to seize and detain anything confiscated under that sub-section and to search for such thing in any place where such thing is known or reasonably suspected to be.

7. (1) Whenever a Presidency Magistrate, District Magistrate, or Sub-divisional Magistrate is satisfied from a police report or otherwise that any information, statement, comment or suggestion is being or is likely to be published in contravention of this Ordinance within the limits of his jurisdiction, he may issue a warrant to a police-officer to search for, seize and detain any document containing such information, statement, comment or suggestion.

Power of magistrate to issue search warrants and order of confiscation in certain cases.

(2) Such Magistrate may order that anything seized under a warrant issued under sub-section (1) shall be confiscated.

8. A police-officer to whom a warrant under section 6 or section 7 is directed may search in any place and seize and detain anything in accordance with the provisions of the warrant, and shall forward anything seized to the Magistrate by whom the warrant was issued.

Power of police-officer executing search warrant.

9. No order made or purporting to be made in accordance with the provisions of this Ordinance directing or relating to the issue of a search-warrant or the confiscation of anything shall be called in question in any Court, and no civil or criminal proceeding shall be instituted against any Magistrate or police-officer for anything done in good faith under this Ordinance or purporting to be so done.

Bar of jurisdiction of Courts.

10. A certificate signed by a Secretary to the Government of India to the fact that any territory is or is not under the suzerainty or protection of His Majesty shall, in any proceeding under this Ordinance, be conclusive evidence of such fact.

Certificate by Secretary to Government to be evidence of certain facts.

11. Save as otherwise expressly provided the provisions of the ¹ Code of Criminal Procedure, 1898, shall apply to all proceedings under this Ordinance.

Application of Code of Criminal Procedure, 1898, to proceedings under this Ordinance.

HARDINGE or PENSHURST,
Viceroy and Governor-General.

ORDINANCE No. II OF 1914.¹

[14th August, 1914.]

An Ordinance to provide for the impressment of vessels for the service of His Majesty.

[Published in the Gazette of India, Extraordinary, of the 14th August, 1914.]

WHEREAS an emergency has arisen which makes it necessary to provide for the impressment of vessels for the service of His Majesty;

Now, therefore, in exercise of the power conferred by section 23 of the Indian Councils Act, 1861, the Governor General is pleased to make and promulgate the following Ordinance :—

Short title
and extent.

1. (1) This Ordinance may be called the Impressment of Vessels Ordinance, 1914.

(2) It extends to the Provinces of Madras, Bombay, Bengal and Burma.

Definitions.

2. In this Ordinance unless there is anything repugnant in the subject or context—

(a) the expression “gazetted officer” has the same meaning as in the ^{24 & 25} Indian Act, 1887, ^{Vict., c. 67,} Marine Act, 1887,

(b) “owner of a vessel” includes the Agent of any such owner in any port in which such vessel may be; and

(c) “vessel” means any ship or boat or any other description of vessel used for navigation, and includes all tackle, appliances, coal, stores and other moveable property of any description on or appertaining to such vessel, except cargo and the personal effects of passengers or of the officers and crew of such vessel.

Power to
impress
vessels for
His Majesty's
Service.

3. The Governor General in Council may, by notification ³ in the Gazette of India, empower the Director or any gazetted officer of the Indian Marine Service to impress temporarily for the service of His Majesty vessels in any specified port.

Requisition
upon owners
and masters
of vessels
required for
such service.

4. (1) Any officer empowered under section 3 may issue a requisition in writing to the owner of any vessel in the port specified in the notification, or in the absence of such owner from such port, or, if the name and address of such owner cannot after reasonable inquiry be ascertained, to the master of any such vessel, to furnish the same for the service of His Majesty.

(2) An officer making a requisition under sub-section (1) shall state therein, if possible, the approximate period for which the vessel will be required, and

(3) Any such officer may, at the time of making the requisition or subsequently, exempt therefrom any tackle, appliances, coal, stores or other moveable property on or appertaining to any vessel requisitioned.

Payment of
compensation
for vessels
impressed
and assessment
thereof.

5. (1) Compensation shall be paid by the Government of India to the owner of any vessel impressed under this Ordinance.

(2) Such compensation shall be assessed by agreement between the officer making the requisition and the owner of the vessel impressed, or failing such agreement in such manner as may be prescribed by the Governor General in Council by rules ⁴ in this behalf.

¹ Kept in force as long as the war lasts and for six months thereafter by Act I of 1915, *supra*.

² Genl. Acts, Vol. IV.

³ For notifications under s. 3, see Notifications in Leg. and O. W.

⁴ For the Impressment of Vessels (Compensation) Rules, 1918, see Leg. and O. W.

*Impressment of Vessels.**Foreigners.*

6. If the owner or master of any vessel requisitioned for the service of His Majesty under the provisions of section 4 fails to furnish such vessel in accordance with the terms of the requisition, the officer by whom the requisition was made may, whether the compensation payable in respect of the impressment of such vessel has been assessed or not, seize, retain and use such vessel for the service of His Majesty, using such force as may be required, and all Magistrates and police officers shall be bound to render such assistance as he may reasonably demand in seizing and retaining a vessel under this section.

Powers of requisitioning officer in case of failure of owner, etc., to furnish vessel.

7. No requisition made under this Ordinance shall be called in question in any court, and save as herein provided no liability, civil or criminal, shall be incurred by any officer of Government by reason of anything done or purporting to be done in accordance with the provisions of this Ordinance.

Bar of jurisdiction of Courts.

8. Nothing in this Ordinance shall be deemed—

- (a) to affect or derogate from any power of seizure or requisition exercised in pursuance of any Proclamation or Order in Council of His Majesty; or
- (b) to authorize any seizure or requisition in contravention of any such Proclamation or Order in Council.

Saving of powers conferred by Proclamation or Orders in Council of His Majesty.

HARDINGE OF PENSHURST,

Viceroy and Governor General.

ORDINANCE No. III of 1914.¹

[20th August, 1914.]

An Ordinance to provide for the exercise of more effective control over foreigners in British India.

[Published in the Gazette of India, Extraordinary, of the 20th August, 1914.]

WHEREAS an emergency has arisen which makes it necessary to provide for the exercise of more effective control over foreigners in British India;

Now, therefore, in exercise of the power conferred by section 23 of the Indian Councils Act, 1861, the Governor General is pleased to make and promulgate the following Ordinance—

1. (1) This Ordinance may be called the Foreigners Ordinance, 1914.

Short title and extent.

(2) It extends to the whole of British India, including British Baluchistan, the Sonthal Parganas, the District of Angul, the Shan States and the Pargana of Spiti.

2. In this Ordinance—

Definitions.

(a) "foreigner" has the same meaning as in the ² Foreigners Act, 1864;

(b) "prescribed" means prescribed by rules made under this Ordinance.

3. (1) The Governor General in Council may by order ³—

(a) prohibit, or regulate and restrict in such manner as he thinks fit, the entry of foreigners into British India and their departure from British India; and

Power to prohibit or regulate entry, departure and residence of foreigners.

(b) regulate or restrict in such manner as he thinks fit the liberty of foreigners residing or being in British India.

¹ Kept in force as long as the war lasts and for six months thereafter by Act I of 1915, *supra*.

For application to Berar and certain other areas under the Indian (Foreign Jurisdiction) Order in Council, 1902, see Notification No. 1666-I. B., dated the 28th August, 1914, in Leg. and O. W.

For application with modifications to persons not being foreigners, see the Ingress into India Ordinance, 1914 (V of 1914), *infra*.

² Genl. Acts, Vol. I.

³ For orders under s. 3, see Notifications in Leg. and O. W.

Foreigners.

(2) In particular and without prejudice to the generality of the foregoing power orders under sub-section (1) may provide—

- (a) that no foreigner shall enter into or depart from British India, save within such period and by such route, or by such port or place as may be specified in such order ;
- (b) that foreigners shall be prohibited from entering or remaining in any specified area in British India or shall only be permitted to enter or remain in British India or any specified area therein subject to such conditions and restrictions as the Governor General in Council may impose ;^{*1}
- (c) that foreigners residing or being in British India shall remove themselves to and remain in any specified area, or if such an order is necessary for the public safety, or in the interests of the State, that such foreigners shall be arrested and interned or confined in such manner as the Governor General in Council may think fit ; ² [and
- (d) that foreigners residing or being in British India shall be prohibited from carrying on trade or business or from dealing with any property, moveable or immoveable, or shall only carry on trade or business, subject to such conditions and restrictions as the Governor General in Council may impose, or shall deal with any such property in such manner as the Governor General in Council may direct].

Power as to
Companies
and Associa-
tions,

³[3A. The power conferred by section 3 may be exercised, so far as the same may be applicable, in respect of any company or association, or body of individuals, whether incorporated or not, of which any member or officer is a foreigner ⁴ [or of which a foreigner was on the 3rd day of August, 1914, a member or officer] and which has an office, agency or place of business in British India.]

Penalties,

⁵4. (1) Any [person] ⁶ who contravenes or attempts to contravene the provisions of any order made under section 3, shall be punished with imprisonment of either description for a term which may extend to three years or with fine, or with both.

⁷[(2) Where a company, association, or body of individuals has done any act which is an offence under sub-section (1), every member or officer of such company, association or body who is knowingly a party to such act, shall be deemed to have committed an offence under the said sub-section.

Householder
to report
residence of
any foreigner
in his house
to prescribed
authority in
specified
areas,

5 (1) The Governor General in Council or any Local Government may, by notification in the Gazette of India or the local official Gazette, as the case may be, direct that within any area specified in such notification every householder in whose house a foreigner is residing either temporarily or permanently shall forthwith report to the prescribed authority in the prescribed manner, the name of such foreigner, and such other particulars respecting him and the period of his residence in such house as may be prescribed.

(2) Any householder who fails to comply with the provisions of any notification issued under sub-section (1) shall be punished with imprisonment of either description for

^{*1} The word "and" was omitted by section 2 (a) of the Foreigners (Amendment) Ordinance, 1914 (VII of 1914), *infra*.

² The word "and" and clause (d) were added by section 2 (b), *ibid.*

³ Section 3-A was inserted by section 3 of *ibid.*

⁴ These words were added by section 2 of the Foreigners (Further Amendment) Ordinance, 1914 (VIII of 1914), *infra*.

⁵ Section 4 was re-numbered 4 (1) by section 4 (1) of the Foreigners (Amendment) Ordinance, 1914 (VII of 1914), *infra*.

⁶ The word "person" was substituted for the word "foreigner" by section 4(1), *ibid.*

⁷ This sub-section (2) was added by section 4 (2), *ibid.*

*Foreigners.**Volunteers.*

a term which may extend to six months or with fine which may extend to five hundred rupees, or with both.

6. Where under the provisions of this Ordinance the Governor General in Council or any Local Government is authorised to make any order or issue any notification in respect of foreigners, such order may be made or such notification issued in respect of foreigners generally or in respect of any class or description of foreigners, or in respect of any individual foreigner, and different orders or notifications may be made or issued in respect of different classes of foreigners. Orders under Ordinance may be general or special.

7. (1) The Governor General in Council may make rules for the purpose of carrying into effect the provisions of this Ordinance. Power to make rules.

In particular and without prejudice to the generality of the foregoing power such rules may provide for—

(a) the authority to whom, and the manner in which, reports under section 5 shall be made and the particulars to be stated therein ; and

(b) the manner in which orders under this Ordinance shall be enforced.

(2) All rules made under this section shall have effect as if enacted in this Ordinance

8. The Governor General in Council or the Local Government may at any time rescind or modify any order, rule or notification made or issued under this Ordinance, and the Governor General in Council may ¹ delegate, subject to such conditions and restrictions as he thinks fit, all or any of his powers under this Ordinance to any civil or military authority in British India either by name or in virtue of his office. Power to rescind or modify rules or orders.

9. Nothing in this Ordinance shall be deemed to affect or derogate from any power which may be exercised under the ² Foreigners Act, 1864, or under any other law for the time being in force in respect of foreigners generally or in respect of foreigners who are subjects of a State which is at war with His Majesty. Saving of powers under existing law.

10. The Governor General in Council may exempt, either absolutely or conditionally, any foreigner or any class or description of foreigners from all or any of the provisions of this Ordinance. Power of exemption.

11. No order made under section 3 of this Ordinance shall be called in question in any Court. Bar of jurisdiction of Courts.

HARDINGE or PENSHURST,

Viceroy and Governor General.

ORDINANCE No. IV of 1914.³

[22nd August, 1914.]

An Ordinance to render members of the Indian Volunteer force on actual military service subject to military law as officers or soldiers.

[Published in the Gazette of India, Extraordinary, of the 22nd August, 1914.]

WHEREAS an emergency has arisen which renders it necessary that the officers, non-commissioned officers and men of volunteer corps, called out for actual military service, shall be subject to military law in all respects as officers or soldiers, as the case may be;

¹ For instances of such delegation, see Notification in L. G. and O. W.

² Genl. Acts, Vol. I.

³ Kept in force as long as the war lasts and for six months thereafter by Act I of 1915; *supra*.

*Volunteers.**Ingress into India.*

Now, therefore, in exercise of the power conferred by section 23 of the Indian Councils Act, 1861, the Governor General is pleased to make and promulgate the following Ordinance —

Short title
and extent.

1. (1) This Ordinance may be called the Indian Volunteers Ordinance, 1914.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas, and applies also to British subjects within the territories of any Native Prince or Chief in India.

Law applicable
to volunteers
on actual
military service.

2. The members of any corps or portion of a corps of volunteers called out for actual military service under section 27 of the ¹ Indian Volunteers Act, 1869 (hereinafter referred to as the said Act), shall, whether enrolled before or after the promulgation of this Ordinance, and notwithstanding anything contained in the said Act, be subject in all respects to military law, the officers as officers, and the non-commissioned officers and men as soldiers, and the ² Army Act shall apply to them accordingly.

44 & 45 Vict., c.
58.

Res. g. n. t. i. n. r.
of volunteers
enrolled prior
to promulgation
of this Ordi-
nance.

3. Any non-commissioned officer or man of any corps of volunteers who has been enrolled before the promulgation of this Ordinance shall, whether on actual military service or not, and notwithstanding anything contained in section 13 of the said Act, be entitled to quit such corps within one month from the date of promulgation of this Ordinance; and seven days' previous notice in writing shall not be required in the case of non-commissioned officers and men quitting a corps in accordance with this section.

HARDINGE OF PENSHURST,
Viceroy and Governor General.

ORDINANCE No. V of 1914.³

[5th September, 1914]

An Ordinance to provide for the control of persons entering British India, whether by sea or land, in order to protect the State from danger of anything prejudicial to its safety, interests or tranquillity.

[Published in the Gazette of India, Extraordinary, of the 5th September, 1914]

WHEREAS an emergency has arisen which makes it necessary to provide for the control of persons entering British India, whether by sea or land, in order to protect the State from danger of anything prejudicial to its safety, interests or tranquillity.

Now, therefore, in exercise of the powers conferred by section 23 of the Indian Councils Act, 1861, the Governor General is pleased to make and promulgate the following Ordinance. —

Short title
and extent.

1. (1) This Ordinance may be called the Ingress into India Ordinance, 1914.

(2) It extends to the whole of British India, including British Baluchistan, the Sonthal Parganas, the District of Angul, the Shan States and the Pargana of Spiti.

Application
of Ordinance
III of 1914.

2. The ⁴ Foreigners Ordinance, 1914, shall have effect as if references therein to foreigners III of 1914, included references also to persons not being foreigners as therein defined, who enter British India, whether by sea or land, after the commencement of this Ordinance, subject to the following modifications, namely:—

(1) The power to prohibit entry, conferred by the said Ordinance, shall not be exercised.

¹ Genl. Acts, Vol. II.

² Coll. Stat., Vol. I.

³ Kept in force as long as the war lasts and for six months thereafter by Act I of 1915, *supra*.

⁴ For application of this Ordinance to Berar, under the Indian (Foreign Jurisdiction) Order in Council, 1902, see Notification No. 599-D, dated 23rd January, 1915, in L.G. and J. W.

⁵ *Supra*.

*Ingress into India.**Commercial Intercourse with Enemies.*

(2) No power under the said Ordinance as applied by this Ordinance shall be exercised, unless the authority exercising the same is satisfied that the exercise thereof is desirable in order to protect the State from the prosecution of some purpose prejudicial to its safety, interests or tranquillity.

(3) For the imprisonment provided by section 4 and section 5 (2) of the said Ordinance, the following imprisonment shall be substituted, namely in section 4, one year, and in section 5(2), one month.

III of 1914.

3. This Ordinance shall be construed with, and deemed to be part of, the ¹ Foreigners Construction, Ordinance, 1914.

HARDINGE OF PENSHURST,
Viceroy and Governor General.

ORDINANCE No. VI OF 1914.²

[14th October, 1914.]

An Ordinance to prohibit financial and other dealings with any State at war with His Majesty and to provide for the punishment of persons contravening any Proclamation or Order in Council of His Majesty the King-Emperor, relating to trade, commercial intercourse or other dealings with His Majesty's enemies.

[Published in the Gazette of India, Extraordinary, of the 14th October, 1914.]

WHEREAS an emergency has arisen which makes it necessary to prohibit financial and other dealings with any State at war with His Majesty and to provide for the punishment of persons contravening the provisions of any Proclamation or Order in Council of His Majesty the King-Emperor, for the time being in force, relating to trade, commercial intercourse or other dealings with His Majesty's enemies,

24 & 25 Vict.,
c. 87.

Now, therefore, in exercise of the power conferred by section 23 of the Indian Councils Act, 1861, the Governor General is pleased to make and promulgate the following Ordinance.—

1. (1) This Ordinance may be called the *Commercial Intercourse with Enemies* Short title and Ordinance, 1914. extent.

(2) It extends to the whole of British India, including British Baluchistan, the Sonthal Parganas, the District of Angul, the Shan States and the Pargana of Spiti; and it applies also to—

- (a) all British and Native Indian subjects of His Majesty within the territories of any Native Prince or Chief in India, and
- (b) all servants of His Majesty, whether British subjects or not, within the territories of any Native Prince or Chief in India.

2. (1) During the continuance of a state of war between His Majesty and any State it shall not be lawful to contribute to, or participate in, or assist in, the floating of any loan raised by or on behalf of the Government of such State, or to advance money to, or enter into any contract or dealings with, or otherwise to aid, abet or assist the Government of such State. Prohibition against financial dealings with hostile States

Act XLV of
1890.

(2) Any person contravening the provisions of this section shall be punishable as if he had committed an offence under section 121 of the ³ Indian Penal Code.

¹ *Supra*.² Kept in force as long as the war with Germany continues by Act I of 1915, *supra*.

³ For application of this Ordinance to British India (Local Jurisdiction) Order in Council, 1902, see Notification No. 909-D., dated the 22nd Dec. 1902, in L. O. W.

⁴ Genl. Acts, Vol. I.

*Commercial Intercourse with Enemies.
Foreigners.*

Penalty for trading in contravention of His Majesty's direction.

3. During the continuance of state of war between His Majesty and any State, any person who contravenes, ¹[attempts, or directly or indirectly offers, proposes or agrees, or has, since the 14th day of October, 1914, attempted or directly or indirectly offered, proposed or agreed to do any act in contravention of] any of the provisions of any Proclamation or Order in Council of His Majesty, for the time being in force, relating to trade, commercial intercourse or other dealings with any subject of such State, or any person residing, carrying on business or being in the territories, colonies or dependencies of such State, shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Provision relating to companies and associations.

4. Where a company, association or body of individuals, whether incorporated or not, has done any act, which is an offence under this Ordinance, every member or officer of such company, association or body, who is knowingly a party to such act, shall be deemed to have committed such offence.

Certificate of Secretary to Government to be conclusive evidence of certain facts.

5. A certificate signed by a Secretary to the Government of India, or by any officer of Government authorised in this behalf ² by the Governor General in Council, certifying to the fact that on the date specified in such certificate any State was or was not at war with His Majesty, shall be conclusive evidence of such fact.

Saying.

6. Nothing in this Ordinance shall be deemed to prohibit anything done by command of, or under licence granted by or under the authority of, His Majesty or the Governor General.

Trial of offences.

7. (1) No Court shall proceed to the trial of any offence under this Ordinance unless upon complaint made by order of, or under the authority of, the Governor General in Council, the Local Government, or some officer empowered by the Governor General in Council in this behalf.

(2) No Court inferior to a Court of Session shall try any offence punishable under section 2, and no Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall try any offence punishable under section 3.

HARDINGE or PENSHURST,
Viceroy and Governor General.

ORDINANCE No. VII of 1914.³

[14th October, 1914.]

An Ordinance to amend the Foreigners Ordinance, 1914.

[Published in the Gazette of India, Extraordinary, of the 14th October, 1914.]

WHEREAS an emergency has arisen which makes it necessary to amend the ⁴ Foreigners III of 1914. Ordinance, 1914 ;

Now, therefore, in exercise of the power conferred by section 23 of the Indian Councils ^{24 & 25 Vict. c. 67.} Act, 1861, the Governor General is pleased to make and promulgate the following Ordinance :—

Short title.

1. This Ordinance may be called the Foreigners (Amendment) Ordinance, 1914.

Amendment of section 3, Foreigners Ordinance, 1914.

2. In section 3, sub-section (2), of the ⁴ Foreigners Ordinance, 1914, hereinafter called III of 1914. "the said Ordinance," the following amendments shall be made, namely—

(a) in clause (b), the word "and," where it occurs for the second time, shall be omitted ;

¹ By s 15 of Act XIV of 1915, *supra*, section 3 is to be read and construed as if these words were inserted.

² For delegation of powers under section 5 to the Chief Secretaries to the Governments of Bombay and Madras, see Notification in Leg. and O. W.

³ Kept in force as long as the war lasts and for six months thereafter by Act I of 1915, *supra*.

⁴ For application of this Ordinance to be at under the Indian (Foreign Jurisdiction) Order in Council, 1902, see Notification No. 999-D., dated the 22nd February, 1915, in Leg. and O. W.

⁵ *Supra*.

*Foreigners.**Articles of Commerce.*

(b) after clause (c), the following shall be added, namely —

(*Vide* page 340, *supra*)

3. After section 3 of the said Ordinance the following section shall be inserted, Insertion of new section after section 3.
namely—

(*Vide* page 340, *supra*.)

4. (1) Section 4 of the said Ordinance shall be renumbered section 4, sub-section (1), Amendment of section 4, Foreigners Ordinance, 1914.
and in the said sub-section as renumbered, for the word “foreigner” the word “person” shall be substituted

(2) After section 4 (1) as renumbered, the following sub-section shall be added, namely.—

(*Vide* page 340, *supra*)

HARDINGE OF PENSHURST,
Viceroy and Governor General.

ORDINANCE No. VIII OF 1914.¹

[14th November, 1914.]

An Ordinance further to amend the Foreigners Ordinance, 1914.

[*Published in the Gazette of India, Extraordinary, of the 14th November, 1914.*]

WHEREAS an emergency has arisen which makes it necessary further to amend the Foreigners Ordinance, 1914;

Now, therefore, in exercise of the power conferred by section 23 of the Indian Councils Act, 1861, the Governor General is pleased to make and promulgate the following Ordinance.—

24 & 25
Vict., c. 67.

III of 1914.

1. This Ordinance may be called the Foreigners (Further Amendment) Ordinance, short title, 1914.

VII of 1914

2. In section 3A of the ² Foreigners Ordinance, 1914, as amended by the ² Foreigners (Amendment) Ordinance, 1914, after the word “foreigner” the following words shall be inserted, namely:— Amendment of section 3A of the Foreigners Ordinance, 1914.

“or of which a foreigner was, on the 3rd day of August, 1914, a member or officer.”

HARDINGE OF PENSHURST,
Viceroy and Governor General.

ORDINANCE No. IX OF 1914.¹

[30th November, 1914.]

An Ordinance to provide power to obtain information as to stocks of articles of commerce and to enable possession to be taken of stocks of articles of commerce unreasonably withheld from the market.

[*Published in the Gazette of India, Extraordinary, of the 30th November, 1914.*]

WHEREAS an emergency has arisen which makes it necessary to provide power to obtain information as to stocks of articles of commerce and to enable possession to be taken of stocks of articles of commerce unreasonably withheld from the market;

¹ Kept in force as long as the war lasts and for six months thereafter by Act I of 1915, *supra*
For application of this Ordinance to Burma under the Indian (Foreign Jurisdiction) Order in Council, 1902, see Notification No. 999-D., dated the 22nd February, 1916, in Lcg. and O. W.

² *Supra*.

Articles of Commerce.

Now, therefore, in exercise of the power conferred by section 23 of Indian Councils Act, 1861, the Governor General is pleased to make and promulgate the following Ordinance — ^{24 & 25 Vict., c. 67.}

Short title and extent.

1 (1) This Ordinance may be called the Articles of Commerce Ordinance, 1914.

(2) It extends to the whole of British India, including British Baluchistan, the Sonthal Parganas and the District of Angul.

Definitions.

2. In this Ordinance unless there is anything repugnant in the subject or context—

(a) "owner" in relation to any article of commerce includes any person who as agent or otherwise has power to sell the article,

(b) "prescribed" means prescribed by rules made under this Ordinance.

Power to call for returns of articles of commerce.

3. (1) The Governor General in Council, as regards the whole or any part of British India, and each Local Government, as regards the whole or any part of the province, may by general or special order¹, require any person or class of persons to make a return, giving such particulars as may be required in the order, of any article of commerce of which he or any person belonging to such class is the owner, and to submit such return to such authority, within such time, as may be specified in the order.

(2) The Governor General in Council, or the Local Government, may, for the purpose of testing the accuracy of any return made in accordance with the provisions of sub-section (1), or of obtaining information in case of a failure to make a return, empower, by general or special order, any person to enter and search any place in which such person has reason to believe that there are kept or stored any articles which have been or were required to be included in the return and of which the person making or required to make the return is or was the owner, and a person so empowered may take such measures as he thinks necessary for testing the accuracy of the return or for obtaining such information.

Returns of information not to be disclosed.

4. No individual return or part of a return made, and no information obtained in accordance with the provisions of section 3, shall be published or disclosed except for the purposes of a prosecution under this Ordinance.

Penalties.

5. Whoever—

(a) intentionally omits to make a return when so required by an order under section 3, or

(b) makes or causes to be made any return which he knows or believes to be false or does not believe to be true; or

(c) obstructs or impedes any person empowered under section 3, sub-section (2), in the exercise of any of his powers under that sub-section; or

(d) refuses to answer or gives an answer which he knows or believes to be false or does not believe to be true to any question necessary for obtaining the information required to be furnished under this Ordinance,

shall be punishable with imprisonment of either description for a term which may extend to six months, or with fine which may extend to rupees one thousand, or with both.

Power to declare that article of commerce is unreasonably withheld from the market.

² 6. (1) If the Governor General in Council or the Local Government is of opinion that any article of commerce is being unreasonably withheld from the market, the Governor General in Council or the Local Government may, by notification in the Gazette of India or the local official Gazette, as the case may be, make a declaration³ to that effect.

¹ For notification publishing such an order, see Leg. and O. W.

² For notification under this section in respect of Naphthalene, see Notification in Leg. and O. W.

³ For such a declaration by the Government of Bihar and Orissa, in respect of Mica, see *Bihar and Orissa Gazette*, 1917, Pt. II, p. 384 B; the Punjab Government, in respect of wheat, straw, baltay and gram, see *Punjab Gazette*, 1918, Pt. I, p. 56.

Articles of Commerce.

(2) The power conferred by sub-section (1) may be exercised in respect of any article of commerce generally or any class of such article or any particular supplies thereof and may be exercised by the Governor General in Council in respect of the whole or any part of British India and by the Local Government in respect of the whole or any part of the province.

(3) Nothing in this Ordinance shall be construed as preventing the authorities mentioned in this section from exercising the power conferred thereby without having first obtained or endeavoured to obtain returns under this Ordinance.

7. On the issue of a notification under section 6, any person empowered by the Governor General in Council or by the Local Government, by general or special order in that behalf, may take possession of any supplies of the article so notified, which may be found within any area to which such notification extends, on paying the owner such compensation as may be determined by agreement between the person so empowered and the owner of such supplies or, in default of agreement, on payment or tender of payment of such compensation as the person so empowered considers reasonable.

8. (1) If the owner of any supplies taken possession of in accordance with the provisions of section 7 is dissatisfied with the compensation paid or tendered to him in default of agreement, such owner, notwithstanding the fact that he may have accepted payment, may, within fourteen days from the date of such payment or tender of payment, or within such longer period as may be prescribed, appeal to the prescribed authority.

(2) The prescribed authority shall consist of at least three persons, one of whom at least shall have commercial experience.

(3) The prescribed authority in deciding the appeal shall have regard to all the circumstances of the case, and may either enhance or reduce the compensation determined as reasonable by the person taking possession of the supplies. If such authority enhances the compensation any sum due in accordance with the award shall be paid to the owner of the supplies. If such authority reduces the compensation any excess which the owner of the supplies has received shall be recoverable from such owner as if it were an arrear of land-revenue.

9. (1) The Governor General in Council or the Local Government may make rules¹ for the purpose of carrying into effect the provisions of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for—

- (a) the forms in which any return required by this Ordinance shall be submitted;
- (b) subject to the provisions of section 8, sub-section (2), the constitution of an authority for the hearing of appeals under section 8, and the procedure to be followed by such authority and by persons appealing to such authority; and
- (c) any other purpose ancillary to this Ordinance.

(3) All rules made under this section shall have effect as if enacted in this Ordinance.

10. No Court shall call into question any order or award made under this Ordinance; and no suit, prosecution or other legal proceeding shall lie against any person for anything which is, in good faith, done or intended to be done under this Ordinance.

HARDINGE OF PENSHURST,
Viceroy and Governor General.

¹ For rules made by the Government of Bihar and Orissa, see *Bihar and Orissa Gazette*, 1917, Pt. II, p. 381. By the Punjab Government, see *Punjab Gazette*, 1913, Pt. I, p. 56.

ORDINANCE No. I OF 1917¹.

[2nd February, 1917.]

An Ordinance to provide for the Registration of certain European British subjects.

[Published in the Gazette of India, Extraordinary, of the 2nd February, 1917.]

WHEREAS an emergency has arisen which renders it necessary to require certain European British subjects to register themselves in the manner hereinafter provided ;

5 & 6 Geo. V,
c. 61.

Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act, 1915, the Governor General is pleased to make and promulgate the following Ordinance :—

1. (1) This Ordinance may be called the Registration Ordinance, 1917.

Short title and
extent.

(2) It extends to the whole of British India, including British Baluchistan and the Santhal Parganas, and applies also to European British subjects within the territories of any Native Prince or Chief in India.

2. In this Ordinance, unless there is anything repugnant in the subject or context,—

Definitions.

Act V of 1898

“ European British subject ” means a European British subject as defined in the ² Code of Criminal Procedure, 1898 ;

“ Prescribed ” means prescribed by rules made under this Ordinance.

XX of 1869.

3. (1) Every male European British subject for the time being in India (not being a member of His Majesty's naval or military forces otherwise than as a volunteer enrolled under the ³ Indian Volunteers' Act, 1869) who, for the time being, has attained the age of sixteen years and ⁴[who for the time being has not attained the age of fifty years] shall within the prescribed period fill up, or cause to be filled up, sign and lodge with the registration authority specified in Schedule I, or such other registration authority ⁵ as may be prescribed, Form A set out in that Schedule, and if any such person claims—

Obligation to
register.

(i) not to be ordinarily resident in British India, or

(ii) to be within exceptions number (2) or (3) set out in Schedule II,
he shall lodge with the said form a statement of his claim.

(2) If any registration authority has reason to believe that any person is a person to whom the provisions of sub-section (1) are applicable, he may, if he thinks fit, by order in writing, require such person to furnish such particulars as may be specified in the order within such time as may be so specified, and such person, whether he is or is not a person to whom that sub-section applies, shall within the specified time furnish the said particulars to such registration authority in such form or manner as such order may require, and shall duly sign the same.

¹ Kept in force as long as the war lasts and for six months thereafter by the Indian Defence Force Act, 1917 (III of 1917), *supra*.

For application to Berar and certain other areas, under the Indian (Foreign Jurisdiction) Order in Council 1902, see Notification No. 1002-D., dated 13th February 1917, in Leg. and O. W.

For extension to the Shan States, see *Burma Gazette* 1917, Pt. 1, p. 118.

² Genl. Acts, Vol. V.

³ Genl. Acts, Vol. II.

⁴ These words were substituted for the words “ had not attained the age of fifty years on the first day of February, 1917 ” by section 18 (1) of the Indian Defence Force Act, 1917 (III of 1917), *supra*.

⁵ For registration authority in Native States and for Rangoon, see Leg. and O. W.

Registration of European British Subjects.

(3) If any person refuses, or without lawful excuse (the burden of proving which shall lie upon such person) neglects—

(a) within the prescribed period to fill up or cause to be filled up to the best of his knowledge and belief the form required by sub-section (1), or to sign or to lodge it with the registration authority as required by that sub-section; or

(b) to comply with the requirements of any order under sub-section (2), he shall be punishable with fine which may extend to five hundred rupees.

Act XLV of,
1860.

(4) Every registration authority under this Ordinance shall be deemed to be a public servant within the meaning of the Indian Penal Code.¹

4. If any question arises with reference to this Ordinance whether any person is a European British subject, or is within the exceptions set out in Schedule II, or as to the age of any person, the prescribed authority may apply to the District Magistrate or to an officer specially empowered in this behalf by the Local Government in the district in which the person to whom the dispute relates is for the time being, and such Magistrate or other officer, after hearing such person or giving him a reasonable opportunity of being heard, shall summarily determine the question, and the decision of such Magistrate or other officer shall be final.

Determination
of disputes as
to residence
and age.

² 5. (1) The Governor General in Council may make rules to carry out the purposes of this Ordinance.

Power to make
rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe registration authorities, provide for the issue of certificates of registration, and the preparation of a register and for the compilation and correction thereof and for the attendance of persons for that purpose, and for the notification of the address and changes of address of registered persons.

(3) Rules made under this section may provide that any contravention thereof or of any order or notice issued under the authority of any such rule shall be punishable with fine which may extend to five hundred rupees.

(4) All rules made under this Ordinance shall be published in the Gazette of India, and no such publication shall have effect as if enacted in this Ordinance.

6. Nothing in this Ordinance shall apply to any person confined in a prison or lunatic asylum.

Ordinance not
to apply to
persons confined
in a prison
or lunatic
asylum.

SCHEDULE I.

(See Section 3.)

PART I.

Registration Authorities.

| | |
|--|--|
| In the case of any person in Government employ. | The Head of the Department. |
| In the case of any person in the employ of any public authority. | The Chief Executive Officer of such authority. |
| In the case of any person in the employ of any Railway. | The Head of the Railway Administration. |

¹ Genl. Acts, Vol. I.

² For rules under this section, see Lx. and O. W.

For certain Native States areas, see Notifications Nos. 1533-1537-D., dated 10th March, 1917; *Gazette of India*, 1917, Pt. 1, pp. 428 to 436, No. 421-L-B., dated the 6th April, 1917, see *Gazette of India*, 1917, Pt. 1, p. 670.

Registration of European British Subjects.

In any other case where no special authority is prescribed.

The District Magistrate of the district where the person for the time being is resident, or in the case of a person resident in a presidency-town, the Commissioner of Police.

PART 2.

Form A.

Particulars.

- (a) Name
 (b) Place of residence
 (c) Date of birth
 (d) Whether single, married or widower
 (e) Number of dependants, if any, distinguishing wife, children and other dependants
 (f) Profession or occupation, if any, name of business, address of employer, if any, and nature of employer's business
 (g) Whether the work on which he is employed, if any, is work for or under any Government Department
 (h) Whether he has undergone military or naval training of any description. If so, what and for what period

Signature and date.

NOTE.—Section 4 (1) (2) of the Code of Criminal Procedure is as follows :—

(i) "European British subject" means —

- (i) any subject of Her Majesty born, naturalised or domiciled in the United Kingdom of Great Britain and Ireland or in any of the European, American or Australian Colonies or possessions of Her Majesty or in the Colony of New Zealand or in the Colony of the Cape of Good Hope or Natal;
- (ii) any child or grand-child of any such person by legitimate descent.

SCHEDULE II.

Exceptions.

- (1) Members of His Majesty's naval and military forces [or of the Royal Indian Marine Service] other than Volunteers enrolled under the Indian Volunteers' Act, 1869.
- (2) Persons in Holy Orders or regular Ministers of any ² [religious] denomination.
- (3) Persons who have at any time since the beginning of the war been prisoners of war, captured or interned by the enemy or have been released or exchanged.

CHELMSFORD,

Viceroy and Governor General.

¹ These words were inserted by section 18 of the Indian Defence Force Act, 1917 (III of 1917), *supra*.

² This word was substituted for the word "British" by *ibid*.

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